

<div>1</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p style="text-align: center;">UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION</p> <p>ERNEST G. COOK,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="text-align: center;">-vs- JUDGE BENITA PEARSON CASE NO. 4:22-CV-00077-BYP VOLUME I</p> <p>BOARD OF TRUMBULL COUNTY COMMISSIONERS,</p> <p style="padding-left: 40px;">Defendant.</p> <p style="text-align: center;">- - - -</p> <p>Video conference Zoom Deposition of MICHELE NICOLE FRENCHKO, taken as if upon cross-examination before Kelli Rae Page, a Notary Public within and for the State of Ohio, at 2:21 p.m. on Monday, May 1, 2023, pursuant to notice and/or stipulations of counsel, on behalf of the Plaintiff in this cause.</p> <p style="text-align: center;">- - - -</p> <p style="text-align: center;">PAGE REPORTING SERVICE 1249 HATHAWAY AVENUE, FLOOR 2 LAKEWOOD, OH 44107 216.316.3258 kellipage@pagereportingservice.comB</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p> </div>	<div>3</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p style="text-align: center;">WITNESS INDEX</p> <table> <tr> <th>EXAMINATION</th> <th>PAGE</th> </tr> <tr> <td>CROSS-EXAMINATION BY MS. GROEDEL</td> <td>4</td> </tr> </table> <p style="text-align: center;">EXHIBIT INDEX</p> <table> <tr> <th>EXHIBIT NUMBER</th> <th>PAGE</th> </tr> <tr> <td>Plaintiff's Exhibit 2</td> <td>21</td> </tr> <tr> <td>Plaintiff's Exhibit 3</td> <td>47</td> </tr> <tr> <td>Plaintiff's Exhibits 4 and 5</td> <td>55</td> </tr> </table> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p> </div>	EXAMINATION	PAGE	CROSS-EXAMINATION BY MS. GROEDEL	4	EXHIBIT NUMBER	PAGE	Plaintiff's Exhibit 2	21	Plaintiff's Exhibit 3	47	Plaintiff's Exhibits 4 and 5	55
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<div>2</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p style="text-align: center;"><u>APPEARANCES:</u></p> <p>(All participants were in attendance via remote connection through individual Zoom video conferencing as follows:)</p> <p>Caryn M. Groedel, Esq. Caryn Groedel & Associates Co., LPA 208 Spriggle Drive Munroe Falls, Ohio 44262 1291 SW Mulberry Way Boca Raton, Florida 33486 440.230.3803 cgroedel@groedel-law.com</p> <p style="padding-left: 40px;">On behalf of the Plaintiff;</p> <p>Kathleen M. Minahan, Esq. Meyers, Roman, Friedberg & Lewis 28601 Chagrin Boulevard, Suite 600 Cleveland, Ohio 44122 216.831.0042 x223 kminahan@meyersroman.com</p> <p style="padding-left: 40px;">On behalf of the Defendant.</p> <p style="text-align: center;"><u>ALSO PRESENT:</u></p> <p>Ernest Cook Mauro Cantalamessa</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p> </div>	<div>4</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p style="text-align: center;"><u>MICHELE NICOLE FRENCHKO</u>, of lawful age, called by the Plaintiff for the purpose of cross-examination, as provided by the Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposed and said as follows:</p> <p style="text-align: center;"><u>CROSS-EXAMINATION OF MICHELE NICOLE FRENCHKO</u> <u>BY MS. GROEDEL:</u></p> <p>Q. Could you, please, state your full name for the record?</p> <p>A. Michele Nicole Frenchko.</p> <p>Q. Before we begin, three quick rules, I'm sure you remember. Please give verbal answers as opposed to nodding or shaking your head or saying "uh-huh" or "uh-uh." Please let me finish asking my question before you start answering it, and also if you haven't heard the question or don't understand it, please let me know and I will rephrase it or say it louder so that you do understand it and you do hear it. Okay?</p> <p>A. Okay.</p> <p>Q. Are you taking any medications that would affect or impair your ability to understand my questions or use your full recall?</p> <p>A. No.</p> <p>Q. Have you seen -- please take a look at Exhibit 1.</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p> </div>												

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02:23 1 MS. GROEDEL: Kathleen, did you send
2 it to her?
3 MS. MINAHAN: I can't find it, Caryn.
4 I have looked. I know you sent it on 4/24, but
5 I can't find it.
6 MS. GROEDEL: Okay. I'll get it.
7 Q. What is your e-mail, Ms. Frenchko?
8 A. **Who is asking me, I'm sorry?**
9 Q. I am, so I can send you the exhibit.
10 A. **I have a question.**
11 Q. Okay.
12 A. **Are there several of these?**
13 Q. No.
14 A. **Okay.**
15 Q. Let me know when you have received it and have
16 reviewed it.
17 A. **Yes. Do you want me to read it word for word?**
18 Q. No.
19 A. **Okay. I have received it and I have reviewed it.**
20 Q. Okay. Have you seen it before today?
21 A. **No.**
22 Q. Which of these categories of questions, and there
23 are 15 of them, are you prepared to testify about?
24 A. **I have 4, 5, 6, 7, 9, 10, 13, and 15.**
25 **Wait. Are there more? Yes, that's it.**
MICHELE NICOLE FRENCHKO

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02:27 1 Q. Okay.
2 A. **Wait, 1. I'm sorry. Also, I had a first set and**
3 **here is the second one. Also 1. Also 1.**
4 Q. So 1, 4, 5, 6, 7, 9, 10, 13 and 15; is that
5 correct?
6 A. **I believe that's correct.**
7 Q. Okay. And what did you do to prepare for this
8 deposition?
9 A. **I'm sorry. I lost the Zoom on my screen. I**
10 **apologize. Wait. Here it is. Okay.**
11 **What did I do to prepare? I reviewed all of**
12 **the -- I reviewed everything that was contained --**
13 **all of the topics that were related, the defenses,**
14 **the responses. I reviewed internal -- internal**
15 **documents. I reviewed files and discussed with**
16 **some employees in HR the specific answers. I did**
17 **internal research, and I spoke to counsel.**
18 Q. What internal documents did you review?
19 A. **I apologize. I was more prepared to go forward a**
20 **week ago, so I don't have -- if I'm missing**
21 **something I just want to assure that it's known**
22 **that it's a nonexhaustive list in case there is**
23 **something that I'm missing.**
24 **I reviewed journal actions. I don't have**
25 **anything with me right now that I did review. I**
MICHELE NICOLE FRENCHKO

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02:30 1 **took notes.**
2 **But journal actions, employee information,**
3 **files, some of the previous legal paperwork**
4 **associated with this case and the complaints and**
5 **responses, policies. That's all I can recall right**
6 **now, but, again, it's nonexhaustive.**
7 Q. Okay. You said you discussed with employees and HR
8 certain things. Which employees?
9 A. **Employees in -- well, Rebecca Smith and Alexandra**
10 **DeVengencie-Bush.**
11 Q. Since you have been a commissioner, approximately
12 how many times has a matter of a disciplinary
13 action come before the commissioners that involves
14 a monetary -- what did she say, a monetary --
15 A. **Monetary impact.**
16 Q. Impact, right -- of employees who report directly
17 to you?
18 A. **Am I to be answering things that Alex was prepared**
19 **to, because I could glance at what you requested,**
20 **if my attorney thinks that that's acceptable. Is**
21 **there something else that I'm responding to --**
22 Q. It's Number 2, because she was not able to answer
23 it because she's too new in that position.
24 MS. MINAHAN: Okay. I'm going to
25 object that this was all known ahead of time.
MICHELE NICOLE FRENCHKO

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02:32 1 I told you this ahead of time, but if
2 Commissioner Frenchko believes that she has the
3 foundation to go ahead and answer for at least
4 a part of the --
5 MS. GROEDEL: Your objection -- you
6 cannot do any speaking objections. It is
7 utterly inappropriate. If you have an
8 objection, place it on the record.
9 MS. MINAHAN: I'm not making an
10 objection, ma'am. Please listen to me.
11 MS. GROEDEL: Well, we're not doing
12 this, if she remembers, and if she feels, and
13 if she does this. No, that's not how it goes,
14 Kathleen. Please, just don't interfere with
15 the deposition.
16 MS. MINAHAN: Okay. Then the witness
17 is instructed not to answer anything that's not
18 her assigned topic.
19 MS. GROEDEL: Okay. I'm going to ask
20 you, before I, as a last good faith
21 meet-and-confer, to withdraw your objection.
22 You have no right to instruct her not to
23 answer.
24 MS. MINAHAN: I tried to explain to
25 you the basis for this. You wouldn't let me
MICHELE NICOLE FRENCHKO

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02:33 1 speak, so what I told her is if you won't let
2 me speak, my answer is the witness is
3 instructed not to answer.
4 MS. GROEDEL: Okay. You're right. I
5 don't want a speaking objection. I think it's
6 inappropriate. So I will take this one up with
7 the Judge.
8 MS. MINAHAN: Do whatever you want.
9 MS. GROEDEL: In the meantime, that's
10 the category and how that's been handled.
11 **A. I apologize. I was reading Number 2, and, kind of,**
12 **not paying attention to you, ma'am.**
13 **Did you just address me, I'm sorry? I was**
14 **reading that Number 2.**
15 MS. MINAHAN: Commissioner, Caryn will
16 not let me explain, so don't answer the topic.
17 MS. GROEDEL: No, you can explain, you
18 just can't keep doing speaking objections,
19 Kathleen. You're not going to tell her how to
20 answer so that she can say, "I don't know."
21 **A. No, ma'am --**
22 MS. MINAHAN: That's not what I was
23 doing, but you won't listen to me, so --
24 MS. GROEDEL: Go ahead. Go ahead. If
25 this is going to avoid a dispute going before
MICHELE NICOLE FRENCHKO

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02:35 1 the Judge, go ahead and explain.
2 MS. MINAHAN: What I was saying is
3 that if Commissioner Frenchko believes that she
4 can testify about topic 2 as for the time
5 period when she was a commissioner, then she is
6 welcome to do so.
7 **Q.** Okay. During the time you have been a
8 commissioner, Ms. Frenchko --
9 **A. I'm sorry. I have to go -- the wind just caught my**
10 **door and my door floated open. I'm sorry.**
11 **The question was just for during the time**
12 **period that I was there, which would be from the**
13 **beginning of January until current; right?**
14 **Q.** Right.
15 **A. Okay. So what was the question?**
16 **Q.** Let's just get it on the record. You started in
17 your role as commissioner on what date?
18 **A. Approximately January 3rd of 2021.**
19 **Q.** And since January of 2021 with respect to employees
20 for whom the commissioners are the appointing
21 authority, what disciplinary matters have the
22 commissioners considered or discussed or -- yeah,
23 considered discipline for employees for whom the
24 commissioners are the appointing authority?
25 **A. Can you, please, repeat that? I want to answer it**
MICHELE NICOLE FRENCHKO

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02:37 1 **specifically, and it was kind of broken.**
2 **Q.** The question is only for employees for whom the
3 commission is the appointing authority; okay?
4 **A. Uh-huh.**
5 **Q.** So with respect to that group of employees only,
6 what discipline -- which employees had been subject
7 to discipline by the commissioners -- subject to
8 discipline?
9 **A. I don't recall all -- I don't -- one, I don't know**
10 **all of them because a lot of those things are**
11 **handled by department heads. And, two, I just**
12 **don't remember every situation.**
13 **Q.** I didn't ask for every -- which ones do you recall,
14 ma'am?
15 **A. Are you talking about employees who are union or**
16 **non -- fiduciary, like department heads that are**
17 **more similar to Mr. Cook, or the classified union**
18 **employees?**
19 **Q.** Not union?
20 **A. Not the union classified ones?**
21 **Q.** Right.
22 **A. Nonunion? To the best of my recollection, the only**
23 **nonunion one that we had an issue concerning**
24 **discipline was the HR director, Richard Jackson.**
25 **Q.** There was also Mr. Cook?
MICHELE NICOLE FRENCHKO

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02:39 1 **A. I'm sorry, I apologize. Of course, Mr. Cook. And**
2 **then the dog one, that's a union employee. He's a**
3 **lower level employee.**
4 **Q.** Okay. Is there -- what was the -- Richard
5 Jackson's alleged offense or offenses?
6 **A. I don't remember specifically what it was called,**
7 **like categorically.**
8 **Q.** Well, even if you don't know the name of it, what
9 was he accused of doing?
10 **A. He told me not to get all hot and bothered, which**
11 **is inappropriate, insubordination. I honestly**
12 **can't remember. It was just conduct that was**
13 **completely unacceptable for an employee to talk to**
14 **their appointing authority in that fashion.**
15 **Q.** Okay. And then there was a vote on the discipline
16 to be imposed?
17 **A. Yes.**
18 **Q.** And what was the discipline that was decided upon?
19 **A. I believe it was suspension unpaid.**
20 **Q.** And then he retired or resigned during that, or
21 when he returned?
22 **A. What is your question specifically?**
23 **Q.** And then did he serve the suspension?
24 **A. Yes.**
25 **Q.** And did he return or resign or retire after the
MICHELE NICOLE FRENCHKO

<p>02:41 1 suspension or during the suspension?</p> <p>2 A. After.</p> <p>3 Q. So he had returned to work already?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. You said a lot of the discipline is handled</p> <p>6 by department heads. What discipline is handled by</p> <p>7 department heads and what must go through the</p> <p>8 commissioners?</p> <p>9 A. Lower level disciplines that don't have a monetary</p> <p>10 impact on the employee are handled through the</p> <p>11 department heads, and those items that have a</p> <p>12 monetary impact on the employee are decided based</p> <p>13 on the appointing authority.</p> <p>14 Q. So whether union or nonunion, the only three you</p> <p>15 can recall, and tell me if I'm wrong, is Richard</p> <p>16 Jackson, Mr. Cook, and the dog warden employee?</p> <p>17 A. Ma'am, that's not what you asked before.</p> <p>18 Q. Okay. It wasn't a repeatable question, it was a</p> <p>19 new question, and I said tell me if I'm incorrect.</p> <p>20 The only three employees you can remember</p> <p>21 considering discipline for, whether union or not,</p> <p>22 is Richard Jackson, Mr. Cook and the dog warden</p> <p>23 employee; is that correct?</p> <p>24 A. That's not correct.</p> <p>25 Q. What other employees do you recall being considered</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>02:45 1 employee. Those are the only ones that I can</p> <p>2 remember right now.</p> <p>3 Q. What were the infractions alleged to have been</p> <p>4 committed by the one or two 911 employees?</p> <p>5 A. I can't recall specifically.</p> <p>6 Q. What was the discipline imposed?</p> <p>7 A. Termination for one. I believe -- I'm not certain.</p> <p>8 One was termination, and I believe one was a</p> <p>9 termination that was -- that was changed to a --</p> <p>10 one was a termination and then it was corrected to</p> <p>11 be an agreement.</p> <p>12 Q. Who was terminated?</p> <p>13 A. I can't remember the names of the employees.</p> <p>14 Q. Man or woman?</p> <p>15 A. There was a man and a woman. Middle -- I can't</p> <p>16 remember the names specifically. I don't want to</p> <p>17 give the wrong name.</p> <p>18 Q. Which one was terminated without being changed to a</p> <p>19 letter?</p> <p>20 A. The man.</p> <p>21 Q. And he was terminated -- had the terminated</p> <p>22 employee had any prior discipline prior to being</p> <p>23 terminated?</p> <p>24 A. I can't recall.</p> <p>25 Q. Did Richard Jackson have any prior discipline</p> <p>MICHELE NICOLE FRENCHKO</p>
<p>02:43 1 for discipline by the commissioners?</p> <p>2 A. There were no other ones that were fiduciary.</p> <p>3 Are we no longer talking about those who are</p> <p>4 similar to Mr. Cook and now we're talking about</p> <p>5 lower level union employees, because that could</p> <p>6 be --</p> <p>7 Q. Ma'am, and I said regardless of whether union or</p> <p>8 not. First it was nonunion, now I'm asking lower</p> <p>9 level, mid level, upper level, whatever level you</p> <p>10 want to imagine, any level employee that the</p> <p>11 commissioners have considered for discipline, since</p> <p>12 you have been a commissioner, other than those</p> <p>13 three individuals?</p> <p>14 A. So what was the question?</p> <p>15 Q. Discipline considered by the commissioners?</p> <p>16 A. That was a statement. Can you give me a question,</p> <p>17 please?</p> <p>18 Q. What employees do you recall the commissioners</p> <p>19 considering for discipline since you have been a</p> <p>20 commissioner?</p> <p>21 A. The one -- the most recent one was the dog kennel</p> <p>22 employee. I don't recall names either. I remember</p> <p>23 there was another 911 employee. There might have</p> <p>24 been two other 911 employees. There have been -- I</p> <p>25 believe there was a jobs and family service</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>02:47 1 before he was terminated?</p> <p>2 A. I can't recall.</p> <p>3 MS. MINAHAN: Objection.</p> <p>4 A. Oh, wait. I'm sorry. He wasn't terminated.</p> <p>5 Q. Was he given an opportunity to resign or retire in</p> <p>6 lieu of termination?</p> <p>7 A. No. Nor was there any pre-disciplinary conference</p> <p>8 because he's a fiduciary. There is a difference.</p> <p>9 Q. There is nothing in the handbook about fiduciaries</p> <p>10 foregoing the right to a pre-disciplinary</p> <p>11 conference, is there?</p> <p>12 A. I can't recall. I do know that we go by the law</p> <p>13 and our policy can't necessarily supersede the</p> <p>14 revised code so --</p> <p>15 MS. GROEDEL: Move to strike.</p> <p>16 Q. And I am going to ask you to answer my question.</p> <p>17 And if you don't know, just say so, ma'am.</p> <p>18 A. Okay. I don't know. I can't recall.</p> <p>19 Q. Are there any other employees you recall the</p> <p>20 commissioners considering for discipline -- oh,</p> <p>21 yes, you mentioned the Job & Family Services</p> <p>22 employee. Was it a him or a her?</p> <p>23 A. I can't recall.</p> <p>24 Q. And what was the accusation of -- against this</p> <p>25 employee?</p> <p>MICHELE NICOLE FRENCHKO</p>

<p>02:49 1 A. Not responding to a call in a timely manner, to the 2 best of my recollection, to a customer. Leaving 3 someone on hold too long, as far as I can recall. 4 Q. And was this person terminated? 5 A. No. 6 Q. What was the discipline imposed? 7 A. I can't recall with certainty. 8 Q. Had the employee been subject to prior discipline? 9 A. I don't know. 10 Q. Are there any other employees you can recall being 11 subject to discipline, whether union or nonunion, 12 mid, low or high level employees, other than those 13 you have mentioned? 14 A. I believe there were two that I can recall. But, 15 no, not -- they were not -- I see what you are 16 saying. 17 Yes, I recall two more. And, again, I wasn't 18 prepared for this number, so things might come to 19 me. 20 Q. I'm asking to the best of your recollection. 21 A. Okay. 22 Q. I appreciate that. 23 What are the other two situations you remember? 24 A. One of them did some political work, and there was 25 a verbal warning, I believe, on the workday, and MICHELE NICOLE FRENCHKO</p>	<p>02:54 1 with respect to the progressive discipline, if 2 they're classified. 3 But if they're nonclassified it's completely 4 different. So theirs follows more similarly to the 5 process that the unions follow. 6 Q. Are they bound by the same handbook that the rest 7 of the employees are bound by? 8 A. Yes. 9 Q. And whether they're union or nonunion, if the 10 department head takes an action that has a monetary 11 component, I believe, tell me if that's not the 12 right word, the ultimate decision must be made by 13 the commissioners? 14 A. Well, pursuant to the revised code if there is a 15 suspension, paid or unpaid, it's required that that 16 come through as something on our agenda that the 17 commissioners vote on, and that's pursuant to the 18 revised code. 19 So that's why I was saying before that our 20 rules can't supercede what the revised code is, 21 that's 124.388. 22 Q. So you're saying even if it doesn't have a monetary 23 component because someone is suspended with pay, it 24 still has to go through the commissioners? 25 A. Yes. If it's -- if they're placed on any type of MICHELE NICOLE FRENCHKO</p>
<p>02:52 1 they got a verbal warning. I don't even -- that's 2 one. 3 One of them was taking photographs and using 4 them for social media and sharing them on the clock 5 from the workplace, something to that effect. I 6 believe it was a verbal. 7 And another employee, just recently, in our 8 office for using inappropriate language to a 9 superior, and got a verbal warning, too. But when 10 they're union and they're verbal after so long they 11 get pulled, so you wouldn't even be able to see 12 that they existed. 13 Q. Which ones of those three, the inappropriate 14 language, the political work for a fundraiser 15 during work, and the taking photos and posting them 16 while on the clock, were union? 17 A. All of them. 18 Q. Is there any other difference in discipline between 19 the union and nonunion in terms of -- other than 20 than if you're union the verbal warnings disappear 21 after a certain amount of time from the personnel 22 file? 23 A. Classified employees are still different than the 24 department heads, the fiduciary ones, so those ones 25 go along with the policy and the procedure manual MICHELE NICOLE FRENCHKO</p>	<p>02:56 1 administrative leave. 2 Q. And that's -- 3 A. I'm sorry, I wanted to be clear. But the monetary 4 impact would relate to even if someone were given 5 one day of unpaid leave, it would come through to 6 the commissioners, even if it were just one day 7 because it has a monetary impact. 8 Q. Even if it's one day with leave with pay because -- 9 A. Yes. Yes. 10 Q. Got it. 11 Okay. Now let's talk about the subjects -- do 12 you have a copy of the complaint and the answer to 13 talk about the defenses? 14 A. I have the questions that you -- that were on that 15 original e-mail that you sent, and I do have the 16 defenses. I have everything that I indicated 17 initially that I was prepared to respond to. 18 Q. Okay. So let's look at the answer to the amended 19 complaint which was filed on October 20th of 2020 20 -- yeah, October 20th, 2022, sorry. 21 Do you have that front of you, ma'am? 22 A. Yes. I have everything that you -- that you are 23 asking me questions about printed. 24 Q. Good. Excellent. 25 MS. GROEDEL: Then I will mark this as MICHELE NICOLE FRENCHKO</p>

<p style="text-align: right;">21</p> <p>02:58 1 Exhibit 2, and I will send it to Kelli.</p> <p>2 Q. I'll send it to you, too, just so we have it.</p> <p>3 - - - - -</p> <p>4 (Plaintiff's Exhibit 2 was marked for purposes of</p> <p>5 identification.)</p> <p>6 - - - - -</p> <p>7 Q. Here you go. Let me know when you receive it.</p> <p>8 A. I have it, and it opened.</p> <p>9 Q. Do you have it?</p> <p>10 A. Yes.</p> <p>11 Q. Good.</p> <p>12 What is the basis for the <i>Second Affirmative</i></p> <p>13 <i>Defense</i> that plaintiff failed to mitigate his</p> <p>14 damages?</p> <p>15 A. We don't know if he made a good faith effort to</p> <p>16 find new employment. We don't know that he sought</p> <p>17 other employments, that he had -- how vigilant he</p> <p>18 was in those efforts either.</p> <p>19 Q. Have you seen any documents he has produced?</p> <p>20 A. I have not. I am aware of one interview.</p> <p>21 Q. Okay. So my question is do you know if he</p> <p>22 submitted any documents in his litigation about his</p> <p>23 mitigation -- any mitigation efforts?</p> <p>24 A. I don't know.</p> <p>25 Q. What steps did you take to determine whether</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p>	<p style="text-align: right;">23</p> <p>03:03 1 A. No. Nothing -- and you are talking about -- no.</p> <p>2 Q. The only thing you did was speak to Kathleen about</p> <p>3 it?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Let's look at the Eighth Defense.</p> <p>6 A. Oh, okay. We're skipping to the Eighth. Okay.</p> <p>7 Q. Did you -- what is the basis for this defense?</p> <p>8 A. Well, he would not have been entitled to</p> <p>9 reinstatement due to his actions.</p> <p>10 Q. And is that in a policy or a procedure?</p> <p>11 A. He wouldn't have passed our background check.</p> <p>12 Q. Okay. My question was -- let me rephrase it.</p> <p>13 Before he was terminated, what are you</p> <p>14 referring to? He wouldn't have been entitled to</p> <p>15 reinstatement, I'm not asking about reinstatement,</p> <p>16 I'm talking about his termination.</p> <p>17 A. About his termination? What is your question</p> <p>18 specifically? I apologize.</p> <p>19 Q. It's okay. What is the basis for this defense?</p> <p>20 A. The unclean hands.</p> <p>21 Q. Right.</p> <p>22 A. His conduct. I mean, his behavior and his actions</p> <p>23 and the incident that he was involved in caused him</p> <p>24 to be in this situation. It was his own doings.</p> <p>25 His hands were not clean. But for the fact that</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p>
<p style="text-align: right;">22</p> <p>03:01 1 Mr. Cook made any efforts to mitigate his damages?</p> <p>2 A. I asked -- I spoke with our counsel to find out if</p> <p>3 there was anything responsive that would cause --</p> <p>4 that would cause the response to be anything</p> <p>5 otherwise, and I was made aware of one interview,</p> <p>6 which, to me, sounds like not enough information</p> <p>7 for us to determine if he made a good faith effort.</p> <p>8 MS. MINAHAN: And, obviously, the</p> <p>9 answer to the amended complaint was filed</p> <p>10 months ago, so your question is locked in time</p> <p>11 to when that answer was filed.</p> <p>12 MS. GROEDEL: Okay. Well, I was not</p> <p>13 done asking if she reviewed anything to</p> <p>14 determine whether or not this is an accurate</p> <p>15 -- still an accurate affirmative defense.</p> <p>16 MS. MINAHAN: But the question is was</p> <p>17 it accurate when it was filed?</p> <p>18 MS. GROEDEL: It says right on here</p> <p>19 when it was filed.</p> <p>20 MS. MINAHAN: Correct.</p> <p>21 Q. Ma'am, I'm asking if you reviewed any documents to</p> <p>22 determine whether or not -- whether it be any</p> <p>23 deposition transcripts, any discovery responses,</p> <p>24 any document production, to determine whether</p> <p>25 Mr. Cook made any efforts to mitigate his damages?</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p>	<p style="text-align: right;">24</p> <p>03:06 1 all of this controversy came up surrounding --</p> <p>2 surrounding the -- him hitting the person on the</p> <p>3 skateboard and the hit-skip and all of that, we</p> <p>4 wouldn't have had it come to this.</p> <p>5 Though there were also other issues with the</p> <p>6 -- with the employment that we discussed in my</p> <p>7 depositions. Everything was a result of his own</p> <p>8 actions. He wasn't some exemplary, stellar</p> <p>9 employee, especially as a result of what happened</p> <p>10 with that incident, and actually it was quite an</p> <p>11 embarrassment and bad for the county.</p> <p>12 Q. We talked about the embarrassment stuff.</p> <p>13 So my question is in furtherance of this, he</p> <p>14 could have been warned or had some lesser form of</p> <p>15 discipline under the progressive discipline policy;</p> <p>16 correct?</p> <p>17 A. Can you ask this again, please?</p> <p>18 Q. He could have been subject to progressive</p> <p>19 discipline under the progressive discipline policy;</p> <p>20 correct?</p> <p>21 A. No.</p> <p>22 Q. Could not have been?</p> <p>23 A. No. He wasn't bound by the --</p> <p>24 Q. Please just answer my questions. I don't want to</p> <p>25 stay here all day. We have another person yet.</p> <p style="text-align: center;">MICHELE NICOLE FRENCHKO</p>

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03:07 1 You can just answer yes or no questions with yes or
2 no, and if your attorney wants to follow up, she
3 will.
4 Did the handbook preclude progressive
5 discipline rather than termination?
6 **A. The -- I don't have that in front of me to answer**
7 **it.**
8 **Q.** You don't know?
9 **A. Yeah, I don't know.**
10 **Q.** Okay. Let's look at the Ninth Defense, "estoppel."
11 What is the factual basis for that affirmative
12 defense?
13 **A. I don't know.**
14 **Q.** Okay. What is the factual basis for the Tenth
15 Defense?
16 **A. The -- we never agreed to accept service. The**
17 **service -- there is insufficiency of service**
18 **process. I know that there was a conversation with**
19 **you, like something that you sent to Bill Danso**
20 **saying thank you for whatever, but we never, as the**
21 **board of commissioners, acknowledged or agreed that**
22 **we would accept service in that way so --**
23 **Q.** What documents, if any, did you review to conclude
24 that there was no agreement to accept service for
25 or on behalf of the board of commissioners?

MICHELE NICOLE FRENCHKO

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03:09 1 **A. I didn't have to review any documents, ma'am. I**
2 **was a member of the board that was being sued, and**
3 **there was no one -- there was no conversation to**
4 **accept the service in the way that you're saying**
5 **that it was accepted. I wasn't there.**
6 **I'll be honest, I didn't review anything**
7 **because I have recollection of the circumstances.**
8 **We didn't have counsel. I mean, it was not -- to**
9 **my eyes, there was no agreement that we would**
10 **accept the service. But you somehow thought that**
11 **it was based on what you sent to our office, so --**
12 **Q.** Do you know if any attorneys agreed to accept
13 process for the commissioners?
14 **A. Our legal counsel didn't and neither did our civil**
15 **prosecutor, neither did Bill Danso, so --**
16 **Q.** And where did you get that information from, that
17 neither attorney agreed to accept service of
18 process?
19 **A. Because it wasn't waived, and if it were waived**
20 **then the board of commissioners would have been**
21 **known or asked -- been notified or asked.**
22 **Q.** Did you speak with anyone regarding this?
23 **A. When?**
24 **Q.** Either counsel?
25 **A. Yes.**

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03:11 1 **Q.** When?
2 **A. Originally when we received it we were waiting to**
3 **have counsel assigned, and that is what we were**
4 **advised by Mr. -- well, wait a second. I don't**
5 **think I can answer anything that's attorney/client**
6 **privilege.**
7 **Q.** Well, facts are never privileged. Facts are facts.
8 **A. Okay. Well, the fact is I was waiting for counsel**
9 **to be assigned, as a member of the board of**
10 **commissioners, that never happened.**
11 **I'm sorry, and it did happen, but it was not**
12 **perfected service, in my personal opinion, but,**
13 **then again, I'm not an attorney, so --**
14 **Q.** Who did you speak to regarding this, and when?
15 **A. Afterwards I spoke to Kathleen about that as well**
16 **when I reviewed what the -- back when I saw what**
17 **she -- well, maybe I didn't talk to her, but I read**
18 **it because I was already aware whenever she sent**
19 **the answers back and the defenses back. I read**
20 **everything that the board -- that's sent out, all**
21 **of our answers and things like that, so -- and then**
22 **afterwards in preparation for this, when we were**
23 **going over our paperwork, this was actually -- this**
24 **was actually something that I looked at and -- I'm**
25 **sorry.**

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03:12 1 **Q.** I really think it's a very simple question.
2 **A. Yes.**
3 **Q.** Who did you talk to about this?
4 **A. When it happened, Bill Danso, and now when I was**
5 **preparing, to Kathleen Minahan, and that's what I**
6 **said earlier.**
7 **Q.** Bill Danso, when it happened, and Kathleen --
8 **A. Yes. But -- I'm sorry, when we received service or**
9 **when we received -- I'm sorry, received service.**
10 **When we get -- when we find out about things,**
11 **our attorney -- I don't know if I'm allowed -- I**
12 **guess in generalities, our attorney, Bill Danso,**
13 **will send something to the commissioners and tell**
14 **us generally that, you know, we are waiting for**
15 **CORSA to assign counsel, or that there is a**
16 **conflict, or whatever it is.**
17 **So back then I was aware, and then again right**
18 **now, or within the last three weeks, it was**
19 **discussed again, but this time the communication**
20 **was with our counsel through CORSA, so --**
21 **Q.** I'm going to try to ask it in a really concise way.
22 **A. Maybe start over again.**
23 **Q.** Well, I do, but you seem to have, out of all the
24 people I've deposed, are the most educated and the
25 most trouble understanding my questions.

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03:14 1 What documents did you review in preparation
2 for your deposition concerning the Tenth
3 Affirmative Defense?
4 **A. None.**
5 **Q.** In preparation for your deposition with whom did
6 you speak, if anyone, concerning the Tenth Defense?
7 **A. Kathleen Minahan.**
8 **Q.** And Miss Minahan told you the fact -- a fact that
9 there has been no agreement to accept service of
10 process by or on behalf of the commissioners?
11 **A. She told -- what was the question?**
12 MS. MINAHAN: Objection. Objection.
13 MS. GROEDEL: I'm not asking for
14 advice, Kathleen. This is a fact. Facts are
15 never, ever, ever, privileged.
16 MS. MINAHAN: I understand that, but
17 what you are asking about is the communication
18 from counsel to client. Whether there was
19 service is an entirely different issue. How
20 she found out there was or was not service is a
21 communication with counsel.
22 MS. GROEDEL: Are you instructing her
23 not to answer? I'll file over this, if you
24 want. I don't want to be argumentative.
25 MS. MINAHAN: Yes, I am.
MICHELE NICOLE FRENCHKO

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03:16 1 MS. GROEDEL: Okay. I'm going to make
2 a last good faith effort for you to withdraw
3 your instruction for her not to answer. Are
4 you declining?
5 MS. MINAHAN: Yeah. I think I just
6 said that, yes.
7 MS. GROEDEL: Well, I am obligated to
8 do that before I file a motion, so I wanted to
9 make sure.
10 **Q.** Okay. I just want to make sure you didn't --
11 strike that.
12 Let's look at the next category, which is 5, no
13 4. No, we did 4 -- 5.
14 **A. Okay.**
15 **Q.** So if you --
16 **A. Wait, did we do 2?**
17 **Q.** Yeah. Oh, denial, sorry, no, we didn't.
18 4, first we'll do the denials and then we'll do
19 the insufficient information.
20 So if you could look at paragraph 5 of the
21 complaint?
22 **A. Yes.**
23 **Q.** Do you see the complaint?
24 **A. Yes.**
25 **Q.** Okay.
MICHELE NICOLE FRENCHKO

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03:18 1 **A. A portion of it.**
2 **Q.** So paragraph 5 says that defendants are entities
3 within the government of Trumbull County and
4 amenable to sue under Ohio law. Do you see that?
5 **A. Yes.**
6 **Q.** And the answer was a denial. Do you see that?
7 **A. Yes.**
8 **Q.** And what is the factual basis of that denial?
9 **A. The board is not the governing body.**
10 **Q.** Well, who was the lawsuit against?
11 **A. The board.**
12 **Q.** So in looking at who was sued, in paragraph 5 of
13 the complaint -- of the amended complaint, is that
14 still an accurate denial?
15 **A. The denial is correct. It is still denied.**
16 **Q.** Okay. Are you saying that the board is not an
17 entity within the government?
18 **A. Which entity? We are the entity. There is no**
19 **separate entity. We're not an entity within**
20 **ourselves.**
21 **Q.** An entity within Trumbull County?
22 **A. It says within the government of Trumbull County.**
23 **Q.** Okay. And what is the factual basis for that being
24 inaccurate? It's not part of -- the board of
25 commissioners is not within the government of
MICHELE NICOLE FRENCHKO

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03:20 1 Trumbull County, it acts outside the government?
2 **A. It is the government. We're not within the**
3 **government.**
4 **Q.** So you are not a part of the Trumbull government,
5 you are the government?
6 **A. We're not an entity. We are not an entity within**
7 **Trumbull County government. We are Trumbull County**
8 **government. We are a political subdivision. It's**
9 **a statutory county. We are a county. We are**
10 **Trumbull County government. We're not an entity**
11 **within it. We're not a board. We are not a**
12 **department. We are Trumbull County.**
13 **Q.** As a subdivision of a government, meaning Trumbull
14 County?
15 **A. No, ma'am. No ma'am. You're confused.**
16 **Q.** You just said --
17 **A. No, ma'am. We're not a subdivision within Trumbull**
18 **County. We are Trumbull County.**
19 **Q.** The board is Trumbull County?
20 **A. Yeah. The board of commissioners is Trumbull --**
21 **Q.** Is the county?
22 **A. That's who the lawsuit was filed against.**
23 **Q.** Okay. Let's look at Number 8. That was denied.
24 What is the factual basis for the denial that
25 plaintiff filed with the State Employment Relations
MICHELE NICOLE FRENCHKO

<p>33</p> <p>03:22 1 Board?</p> <p>2 A. He did not file with the State Employment Relations</p> <p>3 Board.</p> <p>4 Q. And what documents did you review, or who did you</p> <p>5 speak to in connection with that response?</p> <p>6 A. I recall. I was there. I did not speak to anyone</p> <p>7 in preparations for this response in this hearing</p> <p>8 right now. I was there when all of this happened.</p> <p>9 Q. Okay. Let's look at 14.</p> <p>10 A. Do you know the difference between SERB and SPBR?</p> <p>11 Q. Ma'am, I'm on Number 14.</p> <p>12 A. I just thought I would try to help you.</p> <p>13 Q. Thanks.</p> <p>14 In looking at Number 14 --</p> <p>15 A. Yes.</p> <p>16 Q. -- did you have any social media that discussed</p> <p>17 getting rid of the "Good Old Boys"?</p> <p>18 A. Yes.</p> <p>19 Q. You did include that on some social -- one or more</p> <p>20 social media posts; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And Number 15, do you know -- so this was</p> <p>23 denied; correct? It says that in January of 2021</p> <p>24 during the second board meeting that you attended,</p> <p>25 you and another commissioner went into executive</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>35</p> <p>03:26 1 votes present, physically present?</p> <p>2 A. Your question is not making sense. We don't vote</p> <p>3 in executive session, so could you clarify your</p> <p>4 question?</p> <p>5 Q. Does the Ohio Revised Code, or any documents within</p> <p>6 Trumbull County, or of the board of commissioners,</p> <p>7 require physical presence for a termination or</p> <p>8 other adverse employment action to be decided upon</p> <p>9 by the commissioners?</p> <p>10 A. Not at that time.</p> <p>11 MS. MINAHAN: Objection.</p> <p>12 A. Objection -- she made an objection while I was</p> <p>13 answering.</p> <p>14 MS. MINAHAN: That's okay. Go ahead</p> <p>15 and answer.</p> <p>16 Objection.</p> <p>17 Go ahead and answer.</p> <p>18 A. Okay. Not at that time. There was legislation</p> <p>19 enacted by the state during COVID which allowed for</p> <p>20 boards to function regularly with virtual presence.</p> <p>21 There was no requirement at the time of this</p> <p>22 decision to have all commissioners present pursuant</p> <p>23 to the legislation that was enacted at that time</p> <p>24 due to COVID.</p> <p>25 Q. Did -- was one commissioner either at a doctor's</p> <p>MICHELE NICOLE FRENCHKO</p>
<p>34</p> <p>03:24 1 session where you decided -- where they decided,</p> <p>2 you and he, in bad faith, to terminate plaintiff's</p> <p>3 employment. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And my question is, I know one of the members who</p> <p>6 voted was not in the meeting; correct?</p> <p>7 A. That's not correct.</p> <p>8 Q. When the decision was made -- were all three</p> <p>9 commissioners present in person at the meeting when</p> <p>10 the decision was made?</p> <p>11 A. You will have to break that question down. You</p> <p>12 asked two different things.</p> <p>13 Q. Okay. I'll break it down.</p> <p>14 Were all three commissioners in the same</p> <p>15 location when the decision was made?</p> <p>16 A. This is not being asked in a fashion that I feel</p> <p>17 that I can answer and give an honest response.</p> <p>18 Q. Well, it's very simple: Were all three</p> <p>19 commissioners physically in the same location,</p> <p>20 physically?</p> <p>21 A. There you go. Now you asked it.</p> <p>22 No.</p> <p>23 Q. And do you know whether the Ohio Revised Code or</p> <p>24 any legislation or document requires decisions to</p> <p>25 be made in executive session with all required</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>36</p> <p>03:28 1 office or in a car coming to or from a doctor's</p> <p>2 office when he voted on Mr. Cook's termination?</p> <p>3 A. I don't know.</p> <p>4 Q. Was he on any medication at the time, to your</p> <p>5 knowledge?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. Let's look at Number --</p> <p>8 THE WITNESS: Can I take a two-minute</p> <p>9 break to use the restroom?</p> <p>10 MS. GROEDEL: We'll take a five-minute</p> <p>11 break, and I will go to the restroom, too.</p> <p>12 MS. MINAHAN: Okay. Five minutes.</p> <p>13 Thanks.</p> <p>14 - - - - -</p> <p>15 (Whereupon, a recess was had.)</p> <p>16 - - - - -</p> <p>17 Q. Who is the interim 911 director?</p> <p>18 A. Patty Goldner.</p> <p>19 Which number are we on?</p> <p>20 Q. I'm on replacement, 18, paragraph 18.</p> <p>21 A. So what are you asking me?</p> <p>22 Q. She is the interim replacement for him, correct,</p> <p>23 Miss Goldner?</p> <p>24 MS. MINAHAN: Objection.</p> <p>25 Go ahead and answer.</p> <p>MICHELE NICOLE FRENCHKO</p>

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03:37 1 **A. You are asking if -- this is not --**
2 **Q.** 18, paragraph 18, is the interim replacement Patty
3 Goldner?
4 MS. MINAHAN: Objection.
5 Go ahead.
6 **A. No.**
7 **Q.** Who took over -- who took over his job
8 responsibilities after Mr. Cook was terminated?
9 **A. After he was terminated, there is an interim who --**
10 **there was an interim who picked up his**
11 **responsibilities while doing her own job, and he**
12 **was not replaced yet.**
13 **Q.** Who?
14 **A. Mr. Cook has not been replaced yet.**
15 **Q.** Who is the interim?
16 **A. The interim is Patty Goldner --**
17 **Q.** Okay.
18 **A. -- who assumed those additional duties.**
19 **Q.** And she's approximately 30 years younger than
20 plaintiff?
21 **A. I don't know. I know that she's in her forties. I**
22 **think she's --**
23 **Q.** You don't know?
24 **A. Yeah. I'm not certain of the age difference.**
25 **Q.** Did you talk to anyone about this, or look at any
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03:39 1 documents in preparation for your deposition in
2 which you would be asked this question?
3 **A. You know, for this one, as far as it goes as it**
4 **relates to the age, no, I didn't. I just know that**
5 **she is close to my age, so --**
6 **Q.** If you could just answer yes, or no, or I don't
7 know when I ask yes or no questions.
8 MS. GROEDEL: Because, Kathleen, I'll
9 tell you, at this rate there is no way we're
10 going to be done by 4:30. I'm just letting you
11 know.
12 **Q.** I'll ask you again, did you talk to anyone to
13 determine whether or not the statement in paragraph
14 18 of the amended complaint is accurate that the
15 person who was replacing him, even if temporarily,
16 is at least 30 years younger than he?
17 **A. In preparation for this right now, no.**
18 **Q.** In preparation for this, whenever you prepared for
19 it? Did you talk to anyone or look at any
20 documents, ma'am, to know whether or not that was
21 an accurate statement that she is approximately 30
22 years younger?
23 **A. When we responded to the original complaint I**
24 **reviewed it. I don't remember specifically right**
25 **now, though, because I didn't review it for today's**
MICHELE NICOLE FRENCHKO

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03:40 1 **questions.**
2 **Q.** Does she have less education than Mr. Cook?
3 **A. I don't know.**
4 **Q.** Did you talk to anyone or look at any documents to
5 find out whether that statement is true or not?
6 **A. It was denied based on the fact that he wasn't**
7 **replaced, so -- now you're asking things I didn't**
8 **necessarily prepare for today because the basis for**
9 **the denial is that he hasn't even been replaced.**
10 **Q.** Well, it doesn't say whether it's a temporary or
11 permanent replacement, does it, ma'am?
12 MS. MINAHAN: I didn't hear what you
13 said. Can you repeat that, please?
14 **Q.** I said this paragraph doesn't say whether the
15 replacement is temporary or permanent, does it?
16 MS. MINAHAN: Okay. Objection.
17 Go ahead.
18 **A. No. Your statement doesn't clarify that.**
19 **Q.** Right. Yet it was denied; correct?
20 **A. It was denied.**
21 **Q.** Okay. Does Miss Goldner have less education than
22 Mr. Cook? Simple question, yes, no, or I don't
23 know.
24 **A. I don't know.**
25 **Q.** You don't know? I didn't hear you?
MICHELE NICOLE FRENCHKO

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03:42 1 **A. I said I don't know.**
2 **Q.** Did you talk to anyone or look at any documents to
3 find out whether that is an accurate statement?
4 **A. At the time when these defenses and these responses**
5 **occurred I was instrumental in preparing the**
6 **responses. So, back then, yes, but for today, I**
7 **did not go over that.**
8 **Q.** So you don't know then, and you didn't know now?
9 **A. I did know then, but I didn't reacquaint myself**
10 **with anything for this question today.**
11 **Q.** But this was denied in full including the part
12 about the education; correct?
13 **A. Oh, yes. Uh-huh.**
14 **She has been -- there is an equivalency that**
15 **relates to your experience being considered as your**
16 **education, and I believe she's been working there**
17 **since her whole life, adult life.**
18 **Q.** Answer the question, ma'am. I'm not talking
19 experience and I am not talking equivalency. I am
20 talking about education.
21 **A. Okay.**
22 **Q.** When this was denied, you said you were
23 instrumental in answering this. In answering this
24 in its entirety, including all of its components,
25 did you check to see whether Mr. Cook had more
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03:43 1 education than Miss Goldner?

2 MS. MINAHAN: Objection.

3 Go ahead.

4 **A. I can't remember.**

5 **Q.** And you didn't check in preparation for this

6 deposition; correct?

7 **A. No.**

8 **Q.** I'm not correct, or I am correct?

9 **A. Why don't you ask your questions one time the way**

10 **you want it to be answered, and that will make it**

11 **easier and more efficient. So just a suggestion.**

12 **So do you want to ask that again exactly how**

13 **you want me to answer it?**

14 **Q.** In preparation for this deposition did you check on

15 how much education Miss Goldner has? I don't know

16 any other way to ask the question.

17 **A. No.**

18 MS. MINAHAN: Object. Objection.

19 Go ahead and answer.

20 **A. No.**

21 **Q.** Paragraph 19 says: "Defendant failed to pay

22 plaintiff 12 weeks' severance pay to which he is

23 entitled."

24 Now I know that you are going to say he wasn't

25 entitled, but my question is was he paid any

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03:45 1 severance, Mr. Cook?

2 **A. No.**

3 **Q.** In looking at paragraph 20, had Mr. Cook, prior to

4 his termination, ever been subject to counseling or

5 discipline?

6 **A. I'm looking at 20. You just said in looking at 20.**

7 **Are you looking at something other than 20?**

8 MS. MINAHAN: Caryn, are these

9 renumbered?

10 MS. GROEDEL: No.

11 MS. MINAHAN: Because if they've been

12 renumbered --

13 MS. GROEDEL: No. This is shown on

14 the top as -- is this the one that is shown on

15 the top? Oh, maybe this is not the one. Hold

16 on.

17 **A. Number 20 that I'm looking at says that defendants**

18 **failed to pay plaintiff 12 weeks' severance pay to**

19 **which he was entitled, and then the answer was**

20 **denied because it's not a benefit that Trumbull**

21 **County offers.**

22 **Q.** Are you looking at 19? I'm looking at 20.

23 **A. This is 20.**

24 **Q.** It says, "For the 15 years of his employment,"

25 blah-blah-blah.

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03:47 1 **A. That's not --**

2 **Q.** Are we not looking at the same thing? Okay. Then

3 I need to get the one that was -- hold on.

4 **A. No. That's Number 21 on mine. For the entire 15**

5 **years of his employment with Trumbull County**

6 **plaintiff had a stellar work and attendance record.**

7 **That's Number 21 that I'm looking at.**

8 MS. MINAHAN: Did I miss it? Is there

9 a question pending?

10 MS. GROEDEL: No, I'm looking for the

11 one that was filed, that has the document so

12 we're all looking at the same thing.

13 MS. MINAHAN: Okay.

14 MS. GROEDEL: I'll have Christina mark

15 it and she will send it around in a minute.

16 **Q.** Let's go on to -- so 20 -- the amended complaint.

17 Hold on one minute, I'm trying to see where she

18 saved it.

19 Okay. So -- sorry about that.

20 Going back to paragraph -- so 21, "Had

21 plaintiff had any prior counseling or discipline

22 prior to his termination?"

23 MS. MINAHAN: Objection.

24 Go ahead.

25 **A. There were complaints --**

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03:52 1 **Q.** Counseling or discipline, ma'am, please.

2 **A. Oh, counseling or discipline? There were concerns,**

3 **but there were no counselings or disciplines.**

4 **Q.** And did he have any attendance issues?

5 **A. Yes.**

6 **Q.** Is there anything noted in his personnel file about

7 attendance issues?

8 **A. No.**

9 **The county hasn't been keeping track of that.**

10 **They just started implementing a time clock that**

11 **was required since I got there.**

12 **So prior to that, that's one of the reasons**

13 **that led up to us implementing a time clock is**

14 **because of the problems at 911, so --**

15 **Q.** Can you answer my question?

16 **A. Yeah. I did.**

17 **Q.** No, you didn't. You went on and on about how there

18 was no policy or there was no clock or whatever.

19 My question is very simple. Try to follow.

20 **A. I already answered it. If you want to ask this**

21 **lady here to read what I wrote -- she will read you**

22 **what I said. I'm sorry.**

23 **Q.** Thank you. I'm leading the deposition. I want a

24 clear record.

25 Is there anything in Mr. Cook's personnel file

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03:54 1 referencing any attendance issues whatsoever?

2 **A. Nothing documented, no.**

3 **Q.** Thank you. Thank you.

4 Look at paragraph -- well, let me ask this: At

5 the time of his termination did Mr. Cook meet all

6 of the requirements in terms of education,

7 experience and other qualifications to be the 911

8 director?

9 MS. MINAHAN: Objection. I don't know

10 that this relates to a topic, but go ahead and

11 answer.

12 MS. GROEDEL: It does.

13 **A. Which one? I'm trying to follow along.**

14 **Q.** It's okay. You can just answer my question.

15 Did he meet all the minimum qualifications for

16 the job at the time of his termination?

17 **A. No.**

18 **Wait -- you have to be able to pass a**

19 **background check, and he wouldn't have passed a**

20 **background check.**

21 **Q.** At the time of his termination did he meet the

22 minimum stated qualifications?

23 **A. Yes.**

24 **Q.** Let's look at Number 5, Section 5 of the deposition

25 notice. Okay. Section 5 is talking about the

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1 averments and answers to the amended complaint that

2 the commissioners had -- the board had insufficient

3 knowledge to form a belief as to the truth of the

4 averments in those paragraphs. So let's take them

5 in order.

6 Okay. In looking at paragraph 2 -- okay.

7 Paragraph 2 -- I'm sorry, looking at 3, what are

8 the allegations that -- in paragraph 3 of the

9 amended complaint -- that the board did not have

10 sufficient information to answer?

11 MS. MINAHAN: Objection. Calling for

12 a legal conclusion.

13 **Q.** Ms. Frenchko?

14 **A. I don't -- I don't know.**

15 **Q.** Okay. Were the allegations in paragraph 6 of the

16 amended complaint that the board had insufficient

17 -- no. Let's see.

18 Okay, sorry. Paragraph 7, the denial --

19 - - - - -

20 (Off the record due to technical

21 difficulties.)

22 - - - - -

23 **Q.** I'm asking did everybody receive Exhibit 3?

24 **A. Exhibit 3, was that connected to the one you sent**

25 **earlier?**

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1 - - - - -

2 (Plaintiff's Exhibit 3 was marked for purposes of

3 identification.)

4 - - - - -

5 MS. MINAHAN: No. It's a new one.

6 I'm forwarding it right now to you,

7 Commissioner Frenchko.

8 **A. I have received it and I am opening it right now.**

9 **Q.** So you have opened up both the amended complaint

10 and the commissioner's answer; correct?

11 **A. Yes. The notice of the electronic filing, and the**

12 **amended complaint.**

13 **Q.** All right. Good.

14 So we were on paragraph -- section 5 of the

15 amended -- of the deposition notice. So now we're

16 going to look at the denial in paragraph --

17 paragraph 12 of the answer to the amended

18 complaint.

19 What is the lack of knowledge or information

20 that the commission did not have enough information

21 to answer with respect to paragraph 12 of the

22 amended complaint?

23 **A. Oh, God. I don't see it on there. I have**

24 **something different, which is just a section that**

25 **was pulled out.**

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04:11 1 **Can you read it? I'm looking at something**

2 **different. Paragraph 12?**

3 **Q.** I just sent it to you, and so did Kathleen.

4 **A. Paragraph 12? So we skipped through 5; right? You**

5 **don't want to ask anything else from 5?**

6 **Q.** I am on section 5, ma'am.

7 **A. Can you read me what it says then?**

8 **Q.** "In 2010 the Board of Trumbull County Commissioners

9 assigned plaintiff the additional duty of directing

10 Trumbull County's 911 line."

11 **A. Okay. We're on the same page. Thank you for that.**

12 **Q.** You're welcome.

13 And then if you look at the answer to that

14 paragraph, the ending of it says, "Defendant denies

15 all remaining allegations for lack of knowledge or

16 information sufficient to form a belief as to their

17 truth."

18 What was your lack of information regarding?

19 **A. Well, what I have right now is the journal action**

20 **that shows that he was appointed by the board --**

21 **journalized to the position of 911 director on**

22 **10/20 of 2010.**

23 **Calling it an additional duty is different**

24 **because he was actually -- it was actually a new**

25 **appointment.**

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04:13 1 Q. So what was the lack of knowledge or information
2 about?
3 MS. MINAHAN: Objection. Asked and
4 answered.
5 Go ahead.
6 A. **I don't know. I don't think that anyone on the**
7 **board knows what he was doing before -- before that**
8 **time.**
9 Q. No one knew what he was doing before 2010?
10 A. **It says "The Board of Trumbull County Commissioners**
11 **assigned an additional duty."**
12 **It was not an additional duty. He was newly**
13 **appointed.**
14 Q. So what was their insufficient information to admit
15 or deny?
16 MS. MINAHAN: I think you are asking
17 her for a legal conclusion and --
18 MS. GROEDEL: You can just state your
19 objection. That's not -- anything that's
20 filed, whether it's by an attorney or by the
21 client, if it's filed, the attorney is held to
22 it. And you can't claim legal conclusion when
23 you answer a complaint on your client's behalf.
24 So just state your objection, please,
25 Kathleen, and then she can answer or she can't

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04:15 1 answer.
2 MS. MINAHAN: Well, I disagree with
3 you in your statement of what the law is, but
4 my objection is still that it calls for a legal
5 conclusion in what you are asking her.
6 Go ahead and answer, if you can.
7 A. **Thank you.**
8 **I believe I have answered it to the best of my**
9 **ability.**
10 Q. Let's look at 13. What about paragraph 13 of the
11 amended complaint did the commissioners have lack
12 of information or knowledge about?
13 A. **Okay. From his position of chief deputy, sheriff**
14 **was hired full time as Trumbull County's 911**
15 **director. On April 20th, 2016 he went from part**
16 **time at 911 to full time as the director.**
17 Q. Okay. So is there an insufficient -- what is the
18 lack of knowledge about?
19 A. **I don't know definitively. I would only be**
20 **guessing.**
21 **We don't possess anything related to the**
22 **sheriff's department or previous employment. We're**
23 **different bodies.**
24 Q. And there was no way to look at his resume or job
25 application to see if it said that he last worked

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04:17 1 at the -- as chief deputy sheriff?
2 MS. MINAHAN: Objection.
3 Go ahead.
4 A. **Uhm, we don't keep -- Trumbull County does not keep**
5 **the greatest records. And I have walked into a**
6 **situation where, you know, we don't share -- in our**
7 **offices, we don't share information with the other**
8 **elected officials. We can't access them.**
9 **I don't -- I don't have what you are looking**
10 **for, and I apologize.**
11 Q. I understand, but my question is, is there -- it
12 says in the answer to Number 13, defendant denies,
13 or denies for lack of knowledge or information, all
14 remaining allegations contained in paragraph 13.
15 So the lack of knowledge was what he did before
16 he was hired, or before 2015, or what?
17 A. **I have to say I don't know. I don't know. I don't**
18 **know what these --**
19 Q. Fair enough. Ma'am, that's okay. I'm not holding
20 it against you. That's appreciated that you don't
21 know and say you don't know.
22 So let's look at 17. It says that: "Defendant
23 denies, or denies for lack of information, the
24 allegations in paragraph 17 of the amended
25 complaint."

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04:19 1 And as you can see, paragraph 17 says they
2 didn't notify plaintiff of his termination until
3 eight days after they terminated him.
4 Wasn't that something that was known or should
5 have been known or could have been known?
6 MS. MINAHAN: Objection.
7 Go ahead answered.
8 A. **Which one? What are you asking me? Should who**
9 **have known what?**
10 Q. In answering a complaint, a formal complaint served
11 in Federal court, defendant denied, or denied for
12 lack of information, Number 17, which simply says
13 that the defendant didn't notify him of his
14 termination until eight days after his termination.
15 A. **Oh, that's not correct at all. I was there the**
16 **same day that we took action, we had Steve Charles**
17 **call him.**
18 Q. And you were there?
19 A. **To the best of my knowledge, Mr. Charles did what**
20 **he was supposed to do.**
21 Q. You don't know?
22 A. **The defendant -- I guess I don't know. So I guess**
23 **that would be lack of information, if you don't**
24 **know what actually happened.**
25 **But I do know that -- I was under the**

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<p>53</p> <p>04:21 1 impression that he was called the same day. To the 2 best of my knowledge, he was called, but I can't be 3 certain. 4 Q. And where did you get that information from? 5 A. Mr. Charles, or from our -- that's who was there. 6 He was the assistant. 7 Q. I'm sorry, go ahead. I didn't mean to cut you off. 8 A. Yes. For Mr. Charles, he was instructed to do 9 that. 10 Q. So you don't know if he did or didn't, and he 11 wasn't called to -- 12 A. I believe that he was. 13 Q. Before this complaint was answered as denies or 14 denies for lack of information? 15 A. Yes. I believe that it would be denied because he 16 was notified, but he was notified by phone, and we 17 don't know actually when he received -- we don't 18 know actually when the plaintiff received his 19 letter. How could we know exactly when he received 20 it? 21 Q. Okay. So now I'm just trying to get to the basis 22 of it says denies. So did you review this 23 complaint before it was filed? 24 A. Yes. 25 Q. I mean, answer to the complaint, I'm sorry, answer MICHELE NICOLE FRENCHKO</p>	<p>55</p> <p>04:25 1 MS. GROEDEL: She's sending Exhibits 4 2 and 5, which is our Requests For Admission and 3 your answers. 4 MS. MINAHAN: She's moving on to topic 5 6 and she is sending a new deposition exhibit. 6 THE WITNESS: Topic 6. Okay. 7 - - - - - 8 (Plaintiff's Exhibits 4 and 5 were marked for 9 purposes of identification.) 10 - - - - - 11 A. Got it. Got it. It's received, Number 3. Is this 12 -- am I not looking at the right one. Did I just 13 open the same thing? It's 11 pages? 14 Q. No. Let me know when you receive it. 15 - - - - - 16 (Off the record.) 17 - - - - - 18 Q. Number 4 is our Request, and Exhibit 5 is the 19 Commission's responses. 20 A. Okay. I have 4, and I have 5. 21 Q. Great. So I'm asking you about the ones that are 22 identified in paragraph 6 -- section 6 of the 23 deposition notice. 24 A. Okay. 25 Q. So look at -- okay, Number 3 we already discussed. MICHELE NICOLE FRENCHKO</p>
<p>54</p> <p>04:22 1 to the amended complaint. 2 And before this was filed in court was 3 Mr. Charles called and asked if he notified 4 Mr. Cook the day of the termination? 5 MS. MINAHAN: Objection. Foundation. 6 Go ahead. 7 A. To the -- to the best of my knowledge, yes. 8 Q. Who called him? 9 A. Mr. Charles called him. 10 Q. No. Who called Mr. Charles before answering this 11 as denial or denies for lack of information? 12 MS. MINAHAN: Objection. Foundation. 13 Go ahead. 14 A. I don't know. 15 Q. You didn't call him? 16 A. No. 17 Q. And you didn't hear anyone else call him; correct? 18 A. No. I didn't personally hear anyone call him. 19 Q. Okay. So let's look at 26. We looked at 26 20 already. And 27 is fine. Okay. 21 I sent you the Request For Admissions of the 22 Denial -- let me have Christina do that. 23 MS. GROEDEL: Christina is sending now 24 4 and 5. 25 A. Paragraph what, 4 and 5? MICHELE NICOLE FRENCHKO</p>	<p>56</p> <p>04:31 1 A. Yes. 2 Q. 4, this was denied? 3 A. Okay. 4 Q. That plaintiff retired from his position as chief 5 deputy sheriff. What is the basis of that denial? 6 A. Plaintiff retired from his position of chief deputy 7 sheriff -- basis for denial -- 8 Q. Do you know why that was denied? 9 A. He was appointed -- you know what, I don't 10 remember. I did prepare for this, but it's been 11 like about two and a half weeks ago and I am sorry, 12 I just don't remember. 13 Q. You don't know why Number 4 was denied, is that 14 what you are saying? 15 A. Yes. 16 Q. Okay. Number 5, it wasn't answered. Oh, it was. 17 It was denied. Why was that denied? 18 A. Defendant denies that in 2015 plaintiff was rehired 19 as the full-time -- I don't believe that he was 20 rehired. I believe he was appointed. I believe he 21 was appointed. 22 Q. Wasn't there a break in his employment, ma'am? 23 A. I don't know. 24 Q. You don't know why this was -- 25 A. I can't remember. MICHELE NICOLE FRENCHKO</p>

<p style="text-align: right;">57</p> <p>04:33 1 Q. You don't know why this was denied?</p> <p>2 A. I don't remember.</p> <p>3 Q. Okay. 7, did you initiate the termination of five</p> <p>4 employees who were 50 or older?</p> <p>5 A. No.</p> <p>6 Q. Okay. Next is 13 -- or 12. We did 13.</p> <p>7 We looked, during your deposition, about some</p> <p>8 e-mails or text messages or WhatsApp messages or</p> <p>9 Facebook messages you shared with someone about</p> <p>10 some employees that you wanted to get rid of. One</p> <p>11 of them was Ernest Cook; correct?</p> <p>12 A. Okay. You told me to look at 13, and 13 says fire</p> <p>13 or bully senior employees, but you are asking me</p> <p>14 something different.</p> <p>15 Will you, please, just ask me because whenever</p> <p>16 you lump it with in response to 13, it's confusing</p> <p>17 for me.</p> <p>18 Q. Do you recall -- don't look at anything. Okay?</p> <p>19 A. Uh-huh.</p> <p>20 Q. Do you recall that we looked, in your deposition,</p> <p>21 at a series of e-mail or text message or Facebook</p> <p>22 exchanges you had with someone in which you talked</p> <p>23 about wanting to get rid of several employees?</p> <p>24 A. I don't recall the specific messages. Do you have</p> <p>25 them to refresh my memory?</p> <p style="text-align: right;">MICHELE NICOLE FRENCHKO</p>	<p style="text-align: right;">59</p> <p>04:38 1 Q. Okay, 28. You would agree, and we discussed this,</p> <p>2 that he has been replaced with an interim 911</p> <p>3 director; correct?</p> <p>4 MS. MINAHAN: Objection.</p> <p>5 Go ahead.</p> <p>6 A. No, I disagree with saying that he's been replaced,</p> <p>7 because in my understanding they're not replaced</p> <p>8 unless it's a formal -- we haven't found anyone</p> <p>9 yet, so I disagree with saying that he's been</p> <p>10 replaced. There is someone temporarily performing</p> <p>11 his duties.</p> <p>12 Q. For more than a year, for 14 months; correct?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 A. Without an HR director there, too, so we have not</p> <p>16 had an HR director for -- a permanent one --</p> <p>17 Q. That's not the question, but thank you.</p> <p>18 A. Okay.</p> <p>19 Q. Thanks.</p> <p>20 Is the woman who is -- everyone has been</p> <p>21 calling Ms. Goldner, in these depositions, as the</p> <p>22 interim 911 director, so I'm going to keep using</p> <p>23 the phrase and ask if she has at least ten years</p> <p>24 less managerial experience than Mr. Cook?</p> <p>25 A. I don't know.</p> <p style="text-align: right;">MICHELE NICOLE FRENCHKO</p>
<p style="text-align: right;">58</p> <p>04:36 1 Q. If you don't remember, you don't remember. You</p> <p>2 don't remember the e-mail exchange?</p> <p>3 A. Somewhat. I don't remember the specifics, and I</p> <p>4 don't want to say, yes, if I'm not looking at it to</p> <p>5 see exactly what was said in that correspondence.</p> <p>6 Q. Look at Number 17, please.</p> <p>7 A. Yes.</p> <p>8 Q. It says: "Admit or deny that defendants failed to</p> <p>9 contact plaintiff formally in writing regarding his</p> <p>10 termination until eight days after the effective</p> <p>11 date of his termination." And that was denied. Do</p> <p>12 you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And then it says he was terminated on Thursday,</p> <p>15 January 21, and the letter notifying him was dated</p> <p>16 January 25th, 2021. Is that accurate?</p> <p>17 A. That's the next Monday, yes.</p> <p>18 Q. Okay. 26, I'll forego that one.</p> <p>19 The question about Number 27 is were --</p> <p>20 A. 27, I don't have. Are you talking about 28?</p> <p>21 Q. No. Answer 27 on Exhibit 5.</p> <p>22 MS. MINAHAN: That wasn't in the</p> <p>23 topic.</p> <p>24 MS. GROEDEL: I have it here. Oh, no.</p> <p>25 No. That was the prior one. You're right.</p> <p style="text-align: right;">MICHELE NICOLE FRENCHKO</p>	<p style="text-align: right;">60</p> <p>04:39 1 MS. MINAHAN: Objection. I don't</p> <p>2 think that's in the topic list.</p> <p>3 MS. GROEDEL: 29, it is. It's Number</p> <p>4 6, section 6, Number 29.</p> <p>5 MS. MINAHAN: Number 29? Oh, okay.</p> <p>6 Okay.</p> <p>7 Q. Regardless of whether you want to call him a</p> <p>8 replacement or interim or whatever -- her, I mean,</p> <p>9 is it accurate that Miss Goldner has at least ten</p> <p>10 years less managerial experience than Mr. Cook?</p> <p>11 A. I'm not sure without looking.</p> <p>12 Q. Okay. We talked about that, 34.</p> <p>13 Look at 37, please.</p> <p>14 A. Yes. Okay.</p> <p>15 Q. Is the -- I know this was denied because the</p> <p>16 complaint speaks for itself, but the question is</p> <p>17 did Ms. Godfrey's complaint allege the things</p> <p>18 stated in Number 37?</p> <p>19 A. Oh, I can't remember. I didn't look closely at</p> <p>20 that complaint because I don't even know if the</p> <p>21 commissioners were -- I can't remember. I didn't</p> <p>22 read that. I don't remember reviewing that</p> <p>23 complaint recently.</p> <p>24 Q. Okay. And look at Number 50.</p> <p>25 A. Yes.</p> <p style="text-align: right;">MICHELE NICOLE FRENCHKO</p>

<p>04:42 1 Q. On what happen grounds was 50 denied?</p> <p>2 A. On a factual basis.</p> <p>3 It says: "Admit or deny that the plaintiff</p> <p>4 self-reported his conviction to each, then, county</p> <p>5 commissioner."</p> <p>6 To the best of my knowledge, that didn't</p> <p>7 occur.</p> <p>8 Q. And what is your knowledge?</p> <p>9 A. That the commissioners weren't made aware of it.</p> <p>10 Q. Okay. Look at Number -- we're on now item 7 of the</p> <p>11 deposition notice, and we're using the same</p> <p>12 documents.</p> <p>13 A. 7?</p> <p>14 Q. Yes. So we're going to go through the ones that</p> <p>15 the commission said it had insufficient</p> <p>16 information.</p> <p>17 A. Okay.</p> <p>18 Q. To admit --</p> <p>19 A. Okay.</p> <p>20 Q. It says, Number 2, the answer of the commission was</p> <p>21 -- the answer to the question admit or deny that</p> <p>22 plaintiff received numerous awards for leadership</p> <p>23 during his employment with Trumbull County. And</p> <p>24 the commission answered --</p> <p>25 A. Okay. I see.</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>61</p> <p>04:46 1 answering Request For Admission Number 2?</p> <p>2 A. To my knowledge it was. We gathered everything --</p> <p>3 I mean, I witnessed employees pulling everything</p> <p>4 and responding, so I did not personally look at</p> <p>5 everything that was being submitted, but I was</p> <p>6 there when it was being sent, and copies were being</p> <p>7 made and things were -- yeah.</p> <p>8 Q. Did you, or any of the commissioners, look in his</p> <p>9 personnel file to be able to answer whether or not</p> <p>10 it contained any indication of numerous awards for</p> <p>11 leadership?</p> <p>12 A. I did not. I don't believe that the commissioners</p> <p>13 did that. At that time we did have a human</p> <p>14 resources director there, and I would assume that</p> <p>15 he would be the person who did that, and that all</p> <p>16 that information was given to legal counsel.</p> <p>17 Q. So that's based on your assumption and not any</p> <p>18 knowledge, right, that you state they did what you</p> <p>19 believe was done?</p> <p>20 MS. MINAHAN: Objection.</p> <p>21 Go ahead.</p> <p>22 A. Under my information and belief, that's what</p> <p>23 happened, my personal information and my belief</p> <p>24 that those things that I attested to occurred.</p> <p>25 Q. Let's look at Number 18. What was the reasonable</p> <p>MICHELE NICOLE FRENCHKO</p>
<p>04:44 1 Q. I'm sorry, "After having made reasonable inquiry,</p> <p>2 Defendant is unable to admit or deny this request."</p> <p>3 What was the reasonable inquiry that was made?</p> <p>4 A. I was my understanding that our human resources has</p> <p>5 the files on his employment and that there wasn't</p> <p>6 any proof of that. That's my understanding.</p> <p>7 Q. Ma'am, what do you know, for a fact, was done to be</p> <p>8 able to answer this? What was the reasonable</p> <p>9 inquiry that you have personal knowledge of having</p> <p>10 been taken?</p> <p>11 MS. MINAHAN: Objection. Personal</p> <p>12 knowledge isn't a requirement of this. If you</p> <p>13 are asking for her --</p> <p>14 Q. Okay. Any knowledge?</p> <p>15 MS. GROEDEL: You're right. Any</p> <p>16 knowledge.</p> <p>17 A. My answer is efforts to obtain documents from his</p> <p>18 file to prove whether or not that occurred. That's</p> <p>19 something that we worked with our attorneys on,</p> <p>20 which was obtaining -- or for our attorneys on.</p> <p>21 We obtained everything that she needed in</p> <p>22 order to be able to respond to these, and gathered</p> <p>23 everything and gave them to our legal counsel in</p> <p>24 order to respond to everything that was asked.</p> <p>25 Q. Was his personnel file reviewed in conjunction with</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>62</p> <p>04:48 1 inquiry that was made to be able to answer this</p> <p>2 Request For Admission which states: "Admit or deny</p> <p>3 that an HR employee informed Plaintiff of his</p> <p>4 termination"?</p> <p>5 A. Well, no one was -- wait. Admit or deny that HR</p> <p>6 employee -- I can't answer that right now. I don't</p> <p>7 know. I spoke to this earlier about the letter</p> <p>8 that was written and sent the next Monday. I</p> <p>9 believe that that was sent out, just as I believe</p> <p>10 that the phone call was made.</p> <p>11 Q. So in answering this, how many HR employees were</p> <p>12 there at the time of Mr. Cook's termination?</p> <p>13 A. At the time of his termination there was an</p> <p>14 administrative, there was an HR director -- there</p> <p>15 were three employees -- no, four, I take that back,</p> <p>16 but with different duties.</p> <p>17 Q. Did any of the commissioners contact those four</p> <p>18 employees to find out, with certainty, if they had</p> <p>19 or had not informed plaintiff of his termination?</p> <p>20 A. I can't -- I don't know.</p> <p>21 Q. You didn't though; right? We know that?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. Look at 19, what was the reasonable inquiry</p> <p>24 made to be unable to determine whether the</p> <p>25 commissioners -- whether the board told plaintiff,</p> <p>MICHELE NICOLE FRENCHKO</p>

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04:50 1 before this lawsuit, the cause of his termination?

2 **A. That's Number 19?**

3 **Q.** Yep.

4 **A. At no time prior to the initiation -- I don't know**

5 **why this was -- I don't know why this was written,**

6 **because I'm of the understanding that there was a**

7 **letter sent out from human resources on the**

8 **following Monday that the action took place, and**

9 **that there was a phone call. Other than that --**

10 **Q.** That stated the cause?

11 **A. What?**

12 **Q.** That stated the cause of his termination?

13 **A. Oh, that stated the cause, I'm sorry.**

14 **To the best of my knowledge, there was no**

15 **cause mentioned for his termination. So the board**

16 **of commissioners officially did not give a cause.**

17 **I didn't give a cause, and, to the best of my**

18 **knowledge, no other commissioner has, but I can't**

19 **really speak for them or discuss things that**

20 **occurred in executive session.**

21 **Q.** My question was just what steps were taken to be

22 **able to answer this?**

23 **A. What steps were taken to be able to answer this?**

24 **Conversation with the commissioners, and looking at**

25 **the journal action. Nothing was -- and the**

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04:52 1 **letters, the file. There was no named cause.**

2 **Q.** So in answering it now, the answer would be admit;

3 **correct?**

4 **MS. MINAHAN: Objection.**

5 **A. I don't know the strategy or legal reasons for some**

6 **of these answers, so I don't --**

7 **Q.** I know.

8 **In answering it now your answer would be that**

9 **you admit that prior to the initiation of this**

10 **lawsuit no reason was given to him for the cause of**

11 **his termination?**

12 **A. Admit or deny that at no time -- I can't answer**

13 **that, because to be -- I mean, I know that Mr. Fuda**

14 **had a very close relationship with the --**

15 **Commissioner Fuda had a very close relationship**

16 **with the plaintiff, Mr. Cook. They were friends.**

17 **So they have clearly had a lot of conversations, so**

18 **I don't think that it's fair to be able to say that**

19 **someone might have misrepresented the board or had**

20 **additional sidebar conversations that no one would**

21 **be aware of. So we wouldn't really be able to**

22 **admit or deny because someone on the board of**

23 **commissioners could have had conversations.**

24 **Q.** So all you needed to do then was ask the other two

25 **commissioners if they told him, and that was done;**

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04:54 1 correct?

2 **MS. MINAHAN: Objection.**

3 **A. I don't know.**

4 **Q.** Did you take any steps -- it says after having made

5 **reasonable inquiry, and I am trying to figure out**

6 **what inquiry the board made to be able to answer**

7 **this specific question?**

8 **MS. MINAHAN: Caryn, as you know,**

9 **lawyers frequently make that reasonable inquiry**

10 **for their client.**

11 **MS. GROEDEL: Well, if she doesn't**

12 **know she should -- you put this down and this**

13 **is on the list for a long time as I was going**

14 **to ask this. If she doesn't know what steps**

15 **were taken, then she should just say "I don't**

16 **know" and that's fine, we'll move on.**

17 **Q.** Is your answer to say what steps were taken, ma'am,

18 **to answer Number 19, you don't know? Ma'am?**

19 **A. There is discussion -- no, I know that there was**

20 **discussion with the commissioners.**

21 **Q.** Now you are saying there was discussions, and one

22 **or more of the commissioners definitely did tell**

23 **him, before the lawsuit, why he was terminated?**

24 **A. No. I mean that there was discussions with our**

25 **attorneys.**

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04:56 1 **Q.** Ma'am, what steps were taken to answer Number 19?

2 **A. What steps were taken?**

3 **Q.** Having made reasonable inquiry, do you see that

4 **answer under 19?**

5 **A. Yes.**

6 **Q.** What were the steps that were taken that comprised

7 **this reasonable inquiry?**

8 **A. I believe I already answered this to the best of my**

9 **ability.**

10 **Q.** No, you didn't. Well, what is your answer now?

11 **A. Are you asking me to change my answer?**

12 **Q.** No. Ma'am, please just answer my questions. Stop

13 **playing word games.**

14 **A. No. I really answered this about three times.**

15 **Q.** Tell me the steps that were made.

16 **A. I don't remember.**

17 **Q.** Tell me.

18 **A. I don't remember.**

19 **Q.** Okay. And you don't know if any were made;

20 **correct?**

21 **A. I said I don't remember. I mean, I have already**

22 **tried to answer you, but it sounds like you want me**

23 **to change my answer, so, I'm sorry, I can't recall.**

24 **Q.** Do you know if any steps were made?

25 **A. I said I don't remember.**

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04:57 1 - - - - -
2 (Off the record.)
3 - - - - -
4 Q. Okay. Okay. Let's go on to 36.
5 A. **36. Okay.**
6 Q. I'm sorry look at Number 42, please.
7 A. **42, okay.**
8 Q. Can you tell me what steps were taken as part of
9 the reasonable inquiry to answer Request For
10 Admission 42?
11 A. **I believe under -- to the best of my knowledge,**
12 **that we were -- that the board of commissioners**
13 **were asked, and that there were -- and that counsel**
14 **actually reviewed the meetings to hear what has**
15 **been said.**
16 Q. Do you know what was said?
17 A. **What was said?**
18 **Well, first of all, that's not in his name.**
19 Q. I know it said that. I see that.
20 A. **Okay.**
21 Q. Regardless of whether the meetings are recorded or
22 not --
23 A. **Okay.**
24 Q. Regardless of whether the meetings are recorded or
25 not, is it true that you made a motion to terminate
MICHELE NICOLE FRENCHKO

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05:00 1 Mr. Salamone from the transit board but it died for
2 a second?
3 MS. MINAHAN: Well, objection. That's
4 not what the Request For Admission read.
5 A. **Exactly.**
6 MS. GROEDEL: If I don't break it
7 down, she's going to say "you need to break it
8 down," so I'm going to break it down.
9 MS. MINAHAN: Well, I don't --
10 objection.
11 Q. Okay.
12 A. **I'm looking at Number 42 and -- I'm looking at**
13 **Number 42, so go ahead.**
14 Q. Did you make a motion to terminate Mr. Salamone?
15 A. **Did I make a motion to terminate him? Is that the**
16 **whole question?**
17 Q. That's this question, ma'am.
18 A. **No. Is it 42, or is it the question that you are**
19 **posing right now?**
20 Q. I am breaking it down, okay, so that you can't
21 complain that I'm asking too many questions in one
22 question. When I ask one part of it, you complain
23 about that. You object to that.
24 A. **Go ahead.**
25 Q. I'm trying to get through this so we can all move
MICHELE NICOLE FRENCHKO

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05:01 1 on.
2 A. **I got all night, so go ahead.**
3 Q. Did you make a motion to terminate Mr. Salamone?
4 A. **Yes.**
5 Q. Did the motion die for lack of a second?
6 A. **I don't remember.**
7 Q. Did one or more commissioners say you had not
8 demonstrated cause for his termination?
9 A. **I don't remember, but if it died for lack of a**
10 **second there would have been no discussion, because**
11 **the discussion only occurs after there is a second.**
12 Q. What steps were made to be able to answer this
13 question? And please don't say you believe or you
14 think. What do you know, for certainty, was done
15 to be able to answer this question?
16 A. **I can't remember, it was a long time ago.**
17 Q. Okay. 45, is that true or false?
18 MS. MINAHAN: Objection. That has
19 nothing to do with anything.
20 MS. GROEDEL: You can object all you
21 want. You can say that it's not a reason to
22 tell her not to object, and if she says she
23 doesn't know -- she has to answer it, Kathleen.
24 You can object about admissibility later.
25 MS. MINAHAN: Commissioner, you can go
MICHELE NICOLE FRENCHKO

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05:02 1 ahead and answer this absolutely obnoxious
2 request. Go ahead.
3 A. **What was the question about it?**
4 Q. Is it true or false that on or about July 11th of
5 2022 you were evicted from the residence where you
6 were living at the time?
7 A. **False.**
8 Q. 48: "Admit or deny that plaintiff received no
9 points as a result of the two misdemeanors for
10 which he was convicted."
11 And the answer is: "Defendant has made
12 reasonable inquiry and can neither admit nor deny
13 this request."
14 Please tell me what was the reasonable inquiry
15 made.
16 A. **I don't remember.**
17 Q. Okay. 49, what was the steps made to be able to
18 answer Number 49 that the board couldn't admit or
19 deny that plaintiff's license was not suspended as
20 a result of either/or both of the misdemeanors for
21 which he was convicted?
22 A. **I know we didn't have the record at the time.**
23 Q. What steps were taken?
24 A. **What steps were taken?**
25 Q. To be able to find out if this was true or not?
MICHELE NICOLE FRENCHKO

<p style="text-align: right;">73</p> <p>05:04 1 A. I don't remember what steps were taken. I know we 2 didn't have the record. 3 Q. I didn't hear you. 4 A. We didn't have a record. I don't remember what 5 steps were taken. Sometimes it takes a while to 6 get things. I'm assuming that that was it, but I'm 7 not allowed to assume, so I don't remember. 8 Q. Okay. What about 51, what steps were made to be 9 able to answer whether or not Richard Jackson was 10 originally assigned to investigate the matter of 11 plaintiff's conviction for two misdemeanors? 12 A. Which number was it? 13 Q. 51. 14 A. Admit or deny Richard Jackson was originally 15 assigned to investigate -- well, we can't -- we 16 can't -- yeah. To the best of my knowledge, it's 17 no. 18 Q. Were any documents reviewed or anyone spoken to? 19 MS. MINAHAN: Objection. 20 Go ahead. 21 A. The answer to that is I don't know, and as a 22 commissioner investigations are done at the behest 23 of the board and with the board's knowledge. And 24 if I wasn't aware of something, and I wasn't -- I 25 didn't instruct anyone to do anything, then to the MICHELE NICOLE FRENCHKO</p>	<p style="text-align: right;">75</p> <p>05:08 1 Q. So you are saying that he had no power to do 2 anything on his own? 3 A. Absolutely. 4 Q. So could it have been part of his job duties to 5 have been assigned that in his job duties to 6 investigate the matter? 7 A. No. That's not part of -- that's not part of what 8 the -- that's not part of what they do. The human 9 resources director doesn't -- the human resources 10 director doesn't investigate convictions or 11 misdemeanors of employees. That's just not part of 12 their job. There are -- in every job description 13 there are additional duties as assigned, but if 14 something was not assigned it would have been done 15 by -- 16 Q. Ma'am, yes or no? These are yes or no questions. 17 Was it part of his job duties -- 18 A. No. 19 Q. -- to do investigations? Yes, no, or I don't know? 20 MS. MINAHAN: Objection. To do any 21 investigations? 22 MS. GROEDEL: Well, I'm trying to 23 break it down, and then I'm going to go 24 further. 25 A. You are putting it all together instead of breaking MICHELE NICOLE FRENCHKO</p>
<p style="text-align: right;">74</p> <p>05:06 1 best of my information and knowledge then it didn't 2 happen. So the answer is no. I don't know. 3 I have never -- I have never heard of this 4 until -- I mean, I can't speak for any other 5 commissioners, but if any of the other 6 commissioners caused something to happen without 7 the majority of the board knowing, it would have 8 been a violation of the sunshine law, and because 9 we don't have a county administrator, so in order 10 to have something to happen, all three 11 commissioners have to discuss it in executive 12 session. 13 Q. I understand that, ma'am. What steps were taken to 14 answer this question? 15 A. What steps were taken? 16 Q. Either you know or you don't know? 17 A. Steps were taken. Definitely conversations with 18 the commissioners and -- because it's something 19 that only the commissioners would be able to do, 20 because Richard Jackson was a fiduciary who was 21 only assigned to do things based on the board. 22 So if our legal counsel is discussing with the 23 commissioners and asking us if something happened, 24 and we can't say -- and we can't say -- I can't say 25 that it has, then -- MICHELE NICOLE FRENCHKO</p>	<p style="text-align: right;">76</p> <p>05:09 1 them down. I already explained an investigation 2 for criminal things has nothing to do with what the 3 job duties of the human resources director are. 4 Q. Okay. So if somebody had gone to the commissioners 5 and said to you, and the other two commissioners at 6 the time, "Did you assign Richard Jackson to 7 investigate the matter," you all would have given 8 an answer as to yes or no; correct? Is that part 9 correct? 10 MS. MINAHAN: Objection. 11 Go ahead. 12 A. No one is able to assign the board of 13 commissioner's employee a duty unless the board of 14 commissioners is privy to it and has assigned it. 15 Q. So if I'm answering this, and I want to know the 16 answer, "Hey, board, did you -- anybody here assign 17 Richard Jackson to investigate the matter of this 18 conviction?" Yes or no? 19 A. I can say, no, it didn't happen. That didn't 20 happen. 21 Q. Okay. Thank you. 22 A. There was no investigation. That -- if -- 23 Q. Okay. 24 A. There was no conversation. There was no executive 25 session. You are asking -- there was no public MICHELE NICOLE FRENCHKO</p>

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05:10 1 **discussion, and something like that would have to**
2 **have been decided by the board.**
3 **Unless one of the commissioners, or two of the**
4 **commissioners, violated the sunshine law or one of**
5 **them was capable -- and they can't act unilaterally**
6 **to do something, that's the only time that this**
7 **could have happened, and it didn't.**
8 Q. Okay. So the answer to that one should be denied;
9 right?
10 MS. MINAHAN: Objection.
11 Q. Because the only way it could have happened was by
12 a vote, two out of three had to vote to give him
13 that authority; right? Please just answer that yes
14 or no. I want to make sure I'm understanding you,
15 that it didn't happen.
16 To your knowledge, it did not happen that
17 Richard Jackson was assigned to investigate the
18 matter of plaintiff's conviction of the two
19 misdemeanors; correct?
20 MS. MINAHAN: Objection.
21 Go ahead.
22 A. **To my knowledge there was no assignment of that**
23 **duty and there was no investigation. That's to the**
24 **best of my knowledge.**
25 Q. Okay. 54, did you or did you not tell Commissioner
MICHELE NICOLE FRENCHKO

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05:12 1 Fuda that he was too old to be a commissioner?
2 A. **No.**
3 MS. MINAHAN: Objection.
4 Go ahead.
5 A. **No.**
6 Q. So that should be a denial; is that correct?
7 MS. MINAHAN: Objection.
8 Go ahead.
9 A. **I don't know what it should or shouldn't be, but**
10 **the answer is no.**
11 Q. Okay. You never told him he was too old to be a
12 commissioner; right?
13 A. **I never said that. That's correct.**
14 Q. Okay. 55, was Matt Lewis allowed to resign to
15 avoid discharge?
16 A. **I don't know.**
17 Q. What steps were --
18 A. **I don't know. There was more than one Matt Lewis.**
19 Q. What steps were taken to be able to answer this?
20 A. **Staff pulled records of every name that was**
21 **requested -- while on this one specifically, staff**
22 **looked up Matt Lewis's records and we found that**
23 **there were two Matt Lewises. So we actually**
24 **researched in the county's files, actual paper**
25 **files, and insurance cards.**
MICHELE NICOLE FRENCHKO

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05:14 1 Q. Were both files, both Matt Lewises' files checked?
2 MS. MINAHAN: Can you repeat what that
3 question was?
4 MS. GROEDEL: She said there were two
5 Matt Lewises, and I said were both their files
6 checked.
7 A. **No. We didn't know which one to check. We looked**
8 **at both of them and there were more than one with**
9 **different middle initials, so since you weren't**
10 **clear, we skipped and went to the next one. I**
11 **wasn't able to identify -- I wasn't able to**
12 **identify which Matt Lewis you were referencing.**
13 Q. So did you look at both Matt Lewises' personnel
14 files? That's the question.
15 A. **No.**
16 Q. What steps were taken to answer 56, which says
17 admit or deny that Angela, P-I-E-T-E-A-N-G-E-L, was
18 allowed to resign to avoid discharge?
19 A. **We did the same -- I did the same process. I was**
20 **actually in the human resources office having the**
21 **staff look up her file to see what we could find,**
22 **and insurance cards.**
23 Q. So you asked human resources? Who in human
24 resources did you ask to look through her file?
25 A. **Rebecca Smith and Alexandra DeVengencie-Bush.**
MICHELE NICOLE FRENCHKO

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05:16 1 Q. And is it your testimony that you asked both of
2 them to look at her file, and they did so, and they
3 could not tell, from her file, if she was given the
4 opportunity to resign to avoid discharge?
5 A. **There was actually no file.**
6 **That's correct, and there was no file on her.**
7 **I have a separation date, or a hire date of -- in**
8 **2005, and there is -- I believe, based on my**
9 **records here, 2005, and then leaving in 2006. And**
10 **there was no file.**
11 Q. What steps were made for Number 57?
12 A. **The same as the other ones.**
13 **Would you like me to repeat that for every**
14 **one?**
15 Q. No. I'll summarize, and you can tell me if it's
16 accurate or not.
17 You asked Rebecca Smith and Alexandra to look
18 up Ted Powers' file to be able to answer this, and
19 there was no file. Is that accurate, for Number
20 57?
21 A. **There were files, but based on that, because this**
22 **one was reviewed, we're unable to -- we don't know.**
23 Q. What do you mean the file was reviewed, but you
24 don't know?
25 A. **There is nothing in the file that indicates that**
MICHELE NICOLE FRENCHKO

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05:18 1 **Ted Powers was permitted to resign to avoid**
2 **discharge. There is no agreement or anything like**
3 **that.**
4 Q. Okay. Number 58, was Jim Shamrock's file reviewed
5 to be able to answer Number 58?
6 A. **Yes.**
7 Q. And there was nothing in there that allowed you to
8 say one way or the other; is that correct?
9 A. **Everything was reviewed, and this employee retired.**
10 **There was no resignation. It appears, to my eyes,**
11 **that they had time and retired.**
12 Q. That's what you saw from the file?
13 A. **Yes. There was a retirement. There was no**
14 **resignation, there was a retirement.**
15 Q. Did discipline precede his retirement?
16 A. **This is not something that you put in your question**
17 **for me to prepare to take notes on to answer, so I**
18 **didn't take note of that.**
19 Q. Okay. 59, Tom Rush, was his file reviewed to be
20 able to answer 59?
21 A. **His was reviewed, yes, and the insurance cards were**
22 **pulled, and there were two Tom Rushes.**
23 Q. So did you review their files?
24 A. **I'm sorry, I should have waited until you finished,**
25 **but because there were two I wasn't sure which one**
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05:20 1 **you wanted me to answer for, so I did not review**
2 **them.**
3 Q. How about 60, employee Massuci, was his or her file
4 reviewed to be able to answer Number 60?
5 A. **It says J -- this was another interesting**
6 **situation. We tried to review everything to the**
7 **best of our ability, what I did with the employees,**
8 **and there is no J Massuci.**
9 Q. There was no employee employed by Trumbull County
10 with the last name of Massuci?
11 A. **No, it says J Massuci.**
12 Q. Well, regardless -- now I'm asking if you looked up
13 Massuci?
14 A. **We did.**
15 Q. Okay. Now my question is did you see any Massuci
16 employee, any employee or former employee by the
17 name of Massuci?
18 A. **Yes.**
19 Q. Did you look in that person's file, or no?
20 A. **No, ma'am. There were three Massucis.**
21 Q. So you looked in none of them because you didn't
22 know which one I was referring to; is that correct?
23 A. **That's correct.**
24 MS. GROEDEL: Hey, Kathleen, what do
25 you want to do? It's almost 5:30 and we have
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05:21 1 9, 10, 13 and 15?
2 A. **9, 10, 13 and 15. These are dates -- I'm sorry,**
3 **I'm not Kathleen, but these are just mostly dates**
4 **and things that I have all written and ready to**
5 **give you.**
6 MS. MINAHAN: I think we should go
7 forward. I mean, look, Commissioner
8 Cantalamessa is still on the line, it looks
9 like.
10 MR. CANTALAMESSA: I am. I just want
11 to know if we're going to get to me today,
12 that's all.
13 THE WITNESS: We only have like three
14 left for me, and they're very short ones.
15 MR. CANTALAMESSA: You guys let me
16 know. I do have to get moving, though.
17 MS. MINAHAN: Caryn, can we -- I think
18 Commissioner Cantalamessa has three topics. I
19 think these last four are going to go quickly.
20 Can we just try to wrap it up today?
21 THE WITNESS: That's my preference.
22 MS. GROEDEL: Well, I have a client
23 meeting at six that I need to prepare for.
24 MR. CANTALAMESSA: I got to get out of
25 the office anyway, so --
MICHELE NICOLE FRENCHKO

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1 THE WITNESS: I want to finish -- I
2 want to finish -- I want to finish mine right
3 now. I have only four of them left. I have
4 been available. I thought mine started at
5 noon. I have been in the meeting since noon,
6 or 12:15. I have been prepared for it to go
7 last Friday, because I thought it was possible
8 that I would be doing this Friday, but others
9 weren't able to, and I was prepared --
10 MS. GROEDEL: I'm just saying that I
11 won't be able to do them today.
12 THE WITNESS: Okay. In the amount of
13 time you have been talking you could have
14 gotten through --
15 MS. GROEDEL: I set five hours for
16 these depositions, from 12:30 to 5:30. And I
17 had to push off a meeting, that I didn't want
18 to start at six, to six. But there was
19 interruptions and delays, and whatever, and I'm
20 not blaming anyone, but it just can't all get
21 done.
22 If everyone is available, we can pick up
23 9 a.m. tomorrow morning.
24 THE WITNESS: No, I'm not finishing
25 this tomorrow. And I don't know that I'll be
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1 able to -- maybe another employee can, I can
2 give them my notes.
3 I have been available too much. I can give
4 you these. In the amount of time that you're
5 talking I can just give you the answers to
6 these things, they're basically dates. Do you
7 want them?
8 MS. MINAHAN: Can we let Commissioner
9 Cantalamessa go?
10 MR. CANTALAMESSA: Thank you,
11 Kathleen. I'm still at the office, and I'd
12 like to see my family at some point, too. I'm
13 going to have to do that.
14 If we can reschedule, Kathleen, will you
15 get ahold of me? It's no problem with me.
16 MS. MINAHAN: I will. I will.
17 MR. CANTALAMESSA: Thank you so much.
18 MS. MINAHAN: Yep.
19 MS. GROEDEL: Bye.
20 Let me just tell my meeting at six that I
21 might be late by a few minutes. One moment,
22 please.
23 (Discussion off the record.)
24 Q. Category 9, Mr. Cook had no performance evaluations
25 during his employment, to your knowledge; correct?
MICHELE NICOLE FRENCHKO

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05:31 1 A. I think we were on -- whoa.
2 Q. We're done with 7. I'm on topic Number 9.
3 A. Topic Number 9 is plaintiff's performance
4 evaluations and the reason for the lack thereof.
5 So --
6 Q. Did he ever any performance evaluations, ma'am?
7 A. No.
8 Q. That's all I wanted to ask about Number 9.
9 A. But it says the reasons for lack thereof. You are
10 not going to ask why?
11 Q. No.
12 A. Okay.
13 Q. 10, why Charles Parks was not terminated for the
14 crimes of which he was convicted. Can you answer
15 that part, ma'am?
16 A. Yes. Well, This is feedback. It's really bad.
17 MS. MINAHAN: I think it's me.
18 - - - - -
19 (Off the record due to technical
20 difficulties.)
21 - - - - -
22 A. You asked about why he was not terminated.
23 Charles Parks was not terminated. He was
24 transferred from his position -- in absence of HR
25 leadership, because we had a vacancy in HR, the
MICHELE NICOLE FRENCHKO

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05:33 1 board -- the majority of the board had placed him
2 on unpaid leave, which was contrary to law, and it
3 was contrary to the collective bargaining
4 agreement, so we entered a settlement agreement --
5 because there was a grievance, this was a union
6 employee and it was about to go to arbitration, and
7 had we gone to that we would have, in my opinion,
8 lost because the board did something contrary to
9 the collective bargaining agreement and the revised
10 code.
11 So we're not permitted to violate the law and
12 put someone on unpaid leave, and that's exactly
13 what the majority of the board of commissioners
14 did.
15 So we weren't able to lawfully terminate
16 someone, and what he -- what we did was a
17 settlement agreement between AFSCME 2493 and the
18 board of commissioners, and it was a settlement
19 that was agreed upon on 2/24/23.
20 Q. What was the -- what part of the contract and/or
21 Ohio Revised Code do you claim that he could not be
22 lawfully terminate for failing to feed animals that
23 were in his care during his -- as part of his job
24 duties?
25 A. Revised --
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05:35 1 MS. MINAHAN: Objection.
2 Go ahead.
3 A. Revised Code 124.388 for administrative leave.
4 So what happened -- oh, you are asking why he
5 was terminated, or why he couldn't have been
6 terminated.
7 Well, because the collective bargaining
8 agreement prescribes the process for termination,
9 and in order -- for his case, in particular, there
10 was a disciplinary letter, I'm sorry, a pre -- what
11 is it called -- a conference letter to talk about
12 the allegations against him, which was sent, then
13 they had that meeting, and then the board had 15
14 days to take action.
15 So based on the collective bargaining
16 agreement, if we were going to terminate we would
17 have had to do it within 15 days of that meeting.
18 And the board did not take action within the 15
19 days, which meant that the progressive disciplinary
20 action started, and then someone made a mistake by
21 putting him on -- the board, actually the majority
22 of the board, which wasn't me, put him on unpaid
23 leave twice. And a person can't be put on leave,
24 according to the collective bargaining agreement,
25 twice for the same infraction. And that's what
MICHELE NICOLE FRENCHKO

<p>05:37 1 they did.</p> <p>2 So because it was outside the 15 days, you are</p> <p>3 not permitted to terminate. And on top of that,</p> <p>4 the case wasn't even disposed of, so we wouldn't</p> <p>5 have been -- you know, arguably, if we would have</p> <p>6 terminated we would have been terminating someone</p> <p>7 who hadn't even taken a plea or been proven to be</p> <p>8 guilty, and they're innocent until that point.</p> <p>9 So it's a completely different situation, you</p> <p>10 know, this being a person who is bound by the</p> <p>11 collective bargaining agreement. He's a lower</p> <p>12 level union employee.</p> <p>13 MS. GROEDEL: Kathleen, I'm sorry, but</p> <p>14 there is just no way I'm going to get through</p> <p>15 this, and I have to go. I'm going to be late.</p> <p>16 I already am going to be ten minutes late, and</p> <p>17 I can't keep -- I can't get to a six o'clock</p> <p>18 meeting where there are going to be other</p> <p>19 lawyers to wait for me for 20 minutes.</p> <p>20 If your client is not going to show up, we</p> <p>21 will just say that. But I tried to get through</p> <p>22 this, but she has long answers and --</p> <p>23 MS. MINAHAN: I don't think -- I</p> <p>24 really -- I think this can be done in ten</p> <p>25 minutes.</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>89</p> <p>05:39 1 the way.</p> <p>2 Q. Okay. Well --</p> <p>3 A. How did the board --</p> <p>4 Q. We can go through dates and all that --</p> <p>5 MS. GROEDEL: Kathleen, tell me what</p> <p>6 you want to do. I have to end now.</p> <p>7 A. When did the board learn of the incident? It was</p> <p>8 7/29.</p> <p>9 MS. GROEDEL: This is off the record.</p> <p>10 Okay, Kelli.</p> <p>11 - - - - -</p> <p>12 (Whereupon, the deposition was adjourned at</p> <p>13 5:40 p.m.)</p> <p>14 - - - - -</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>MICHELE NICOLE FRENCHKO</p>
<p>05:38 1 MS. GROEDEL: I can't -- I can't -- I</p> <p>2 can't. To be quite honest, I can't -- okay.</p> <p>3 There were issues with Zoom and this and that,</p> <p>4 but I'm already late. I gave five hours. I</p> <p>5 told you that I had -- I said I'm sure that we</p> <p>6 can be done by 5:30, but I did not know --</p> <p>7 A. Anything that's not -- the dates and the dollars</p> <p>8 per hour, these other things can be given, but the</p> <p>9 questions about the situation --</p> <p>10 Q. Well, you keep saying that, but your answers are</p> <p>11 not that way.</p> <p>12 A. It seems like you're -- I'm trying to explain it.</p> <p>13 MS. GROEDEL: I just want to say, are</p> <p>14 we going to finish at another time? I can't</p> <p>15 even say how long it will take because her</p> <p>16 answers defy the normal course of what I'm used</p> <p>17 to in question/answer, question/answer.</p> <p>18 She makes me ask questions many times,</p> <p>19 break them down, then not break them down, and</p> <p>20 she gives long answers that aren't relevant to</p> <p>21 the questions I have asked, and I can't get</p> <p>22 done in ten minutes.</p> <p>23 And I'm already going to be ten minutes</p> <p>24 late. I cannot make other lawyers wait.</p> <p>25 A. I just answered Number 13 in my previous answer, by</p> <p>MICHELE NICOLE FRENCHKO</p>	<p>90</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 The State of Ohio,)</p> <p>4) SS:</p> <p>5 County of Cuyahoga.)</p> <p>6</p> <p>7 I, Kelli Rae Page, a Notary Public within</p> <p>8 and for the State of Ohio, and authorized to administer</p> <p>9 oaths and to take and certify depositions, do hereby</p> <p>10 certify that the above-named witness, MICHELE NICOLE</p> <p>11 FRENCHKO, was by me, before the giving of her</p> <p>12 deposition, first duly sworn to testify the truth, the</p> <p>13 whole truth, and nothing but the truth; that the</p> <p>14 deposition as above-set forth was reduced to writing by</p> <p>15 me by means of stenotypy, and was later transcribed into</p> <p>16 typewriting under my direction; that this is a true</p> <p>17 record of the testimony given by the witness, and was</p> <p>18 subscribed by said witness remotely by agreement of the</p> <p>19 parties; that said deposition was taken at the</p> <p>20 aforementioned time, date and place, and was adjourned,</p> <p>21 pursuant to notice or stipulations of counsel; that I am</p> <p>22 not a relative or employee or attorney of any of the</p> <p>23 parties, or a relative or employee of such attorney or</p> <p>24 financially interested in this action. I am not, nor is</p> <p>25 the court reporting firm with which I am affiliated,</p> <p>under a contract as defined in Civil Rule 28 (D).</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>and seal of office, at Cleveland, Ohio, this 9th day of</p> <p>May, A.D. 2023.</p> <p>Kelli Rae Page</p> <p>Kelli Rae Page, Notary Public, State of Ohio</p> <p>My commission expires October 30, 2025.</p> <p>MICHELE NICOLE FRENCHKO</p>

1 DEPOSITION ERRATA SHEET

2 RE: UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 CASE NO. 4:22-CV-00077-BYP, JUDGE BENITA PEARSON

Deponent: MICHELE NICOLE FRENCHKO
5 Deposition Date: May 1, 2023

6 To the Reporter:
 I have read the entire transcript of my Deposition taken
7 in the above-captioned matter or the same has been read
 to me. I request that the following changes be entered
8 upon the record for the reasons indicated. I have
 signed my name to the Errata Sheet and authorize you to
9 attach said Errata Sheet to the original transcript.

10 page line correction

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____

23 _____ NO CHANGES

24

25 _____
 Michele Nicole Frenchko Date
 MICHELE NICOLE FRENCHKO

<p>1</p> <p>1 [7] - 1:14, 4:25, 6:2, 6:3, 6:4, 93:5 10 [5] - 5:24, 6:4, 83:1, 83:2, 86:13 10/20 [1] - 48:22 11 [1] - 55:13 11th [1] - 72:4 12 [7] - 41:22, 42:18, 47:17, 47:21, 48:2, 48:4, 57:6 124.388 [2] - 19:21, 88:3 1249 [1] - 1:18 1291 [1] - 2:6 12:15 [1] - 84:6 12:30 [1] - 84:16 13 [14] - 5:24, 6:4, 50:10, 51:12, 51:14, 57:6, 57:12, 57:16, 83:1, 83:2, 90:25 14 [4] - 33:9, 33:11, 33:14, 59:12 15 [12] - 5:23, 5:24, 6:4, 33:22, 42:24, 43:4, 83:1, 83:2, 88:13, 88:17, 88:18, 89:2 17 [5] - 51:22, 51:24, 52:1, 52:12, 58:6 18 [6] - 36:20, 37:2, 38:14, 63:25 19 [7] - 41:21, 42:22, 64:23, 65:2, 67:18, 68:1, 68:4</p>	<p>50:15 21 [5] - 3:7, 43:4, 43:7, 43:20, 58:15 216.316.3258 [1] - 1:19 216.831.0042 [1] - 2:11 2493 [1] - 87:17 25th [1] - 58:16 26 [3] - 54:19, 58:18 27 [4] - 54:20, 58:19, 58:20, 58:21 28 [3] - 58:20, 59:1, 92:15 28601 [1] - 2:10 29 [3] - 60:3, 60:4, 60:5 2:21 [1] - 1:13</p>	<p>55:18, 55:20, 56:16, 58:21 50 [3] - 57:4, 60:24, 61:1 51 [2] - 73:8, 73:13 54 [1] - 77:25 55 [2] - 3:8, 78:14 56 [1] - 79:16 57 [2] - 80:11, 80:20 58 [2] - 81:4, 81:5 59 [2] - 81:19, 81:20 5:30 [3] - 82:25, 84:16, 90:6 5:40 [1] - 91:13</p>	<p>above-captioned [1] - 93:7 above-named [1] - 92:7 above-set [1] - 92:9 absence [1] - 86:24 absolutely [2] - 72:1, 75:3 accept [8] - 25:16, 25:22, 25:24, 26:4, 26:10, 26:12, 26:17, 29:9 acceptable [1] - 7:20 accepted [1] - 26:5 access [1] - 51:8 according [1] - 88:24 accurate [11] - 22:14, 22:15, 22:17, 31:14, 38:14, 38:21, 40:3, 58:16, 60:9, 80:16, 80:19 accusation [1] - 16:24 accused [1] - 12:9 acknowledged [1] - 25:21 act [1] - 77:5 action [11] - 7:13, 19:10, 35:8, 48:19, 52:16, 65:8, 65:25, 88:14, 88:18, 88:20, 92:14 actions [5] - 6:24, 7:2, 23:9, 23:22, 24:8 acts [1] - 32:1 actual [1] - 78:24 additional [7] - 37:18, 48:9, 48:23, 49:11, 49:12, 66:20, 75:13 address [1] - 9:13 adjourned [2] - 91:12, 92:12 administer [1] - 92:6 administrative [3] - 20:1, 64:14, 88:3 administrator [1] - 74:9 admissibility [1] - 71:24 Admission [5] - 55:2, 63:1, 64:2, 69:10, 70:4 Admissions [1] - 54:21 admit [14] - 49:14, 58:8, 61:18, 61:21, 62:2, 64:2, 64:5, 66:2, 66:9, 66:22, 72:12, 72:18, 73:14, 79:17 Admit [3] - 61:3, 66:12, 72:8 adult [1] - 40:17 adverse [1] - 35:8 advice [1] - 29:14 advised [1] - 27:4 affect [1] - 4:21 affiliated [1] - 92:15</p>
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